

1980

c 91 Cooperative Corporations Act

Ontario

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CHAPTER 91

Co-operative Corporations Act

1.—(1) In this Act,

Interpre-
tation

1. “articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which a co-operative is incorporated, and includes any amendments thereto;
2. “authorized capital” means the authorized capital as determined under section 25;
3. “certificate of incorporation” includes letters patent, a special Act or any other instrument by which a co-operative is incorporated;
4. “certified copy” means,
 - i. in relation to a document of a co-operative, a copy of the document certified to be a true copy under the seal of the co-operative and signed by an officer thereof,
 - ii. in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
 - iii. in relation to a document in the custody of the Ministry, a copy of the document certified to be a true copy under the seal of the Minister and signed by the Minister or by such officer of the Ministry as is designated by the regulations;
5. “co-operative” means a corporation carrying on an enterprise on a co-operative basis and to which this Act applies;

6. "co-operative basis" means organized, operated and administered upon the following principles and methods,
 - i. each member or delegate has only one vote,
 - ii. no member or delegate may vote by proxy,
 - iii. interest on loan capital and dividends on share capital are limited to a percentage fixed by this Act or the articles of incorporation, and
 - iv. the enterprise of the corporation is operated as nearly as possible at cost after providing for reasonable reserves and the payment or crediting of interest on loan capital or dividends on share capital; and any surplus funds arising from the business of the organization, after providing for such reasonable reserves and interest or dividends, unless used to maintain or improve services of the organization for its members or donated for community welfare or the propagation of co-operative principles, are distributed in whole or in part among the members in proportion to the volume of business they have done with or through the organization;
7. "corporation" means a corporation with or without share capital whether or not it is a co-operative to which this Act applies;
8. "court" means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;
9. "debt obligation" means a bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;
10. "direct charge co-operative" means a co-operative that deals with its members and prospective members only in products or services on a cost basis and that directly charges its members a fee to cover the operating expenses of the co-operative;

11. "financial statement" means a financial statement referred to in section 128;
12. "issued capital" means the issued capital as determined under section 29;
13. "member" means a person who is a member of a co-operative pursuant to the provisions of this Act or the articles and by-laws of the co-operative governing membership;
14. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
15. "Ministry" means the Ministry of the Minister;
16. "officer" means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager, or any other person designated an officer by by-law or by resolution of the directors or any other individual who performs functions for the co-operative similar to those normally performed by an individual occupying any such office;
17. "personal representative", where used with reference to the holding of shares or loans or the exercise of a member's rights in that capacity, means in the capacity of an executor, administrator, guardian, tutor, trustee, receiver or liquidator of the member, shareholder or lender or the committee of or curator to the member, shareholder or lender who is a mentally incompetent person;
18. "prescribed" means prescribed by the regulations;
19. "regulations" means the regulations made under this Act;
20. "related person", where used to indicate a relationship with any person, means,
 - i. any spouse, son or daughter of that person, or
 - ii. any relative of such person or of his spouse, other than a relative referred to in subparagraph i, who has the same home as such person;

21. "resident Canadian" means a Canadian citizen or person lawfully admitted to Canada for permanent residence, who is ordinarily resident in Canada;
22. "security" means any share of any class of shares or any debt obligation of a corporation;
23. "senior officer" means,
 - i. the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a co-operative or any other individual who performs functions for the co-operative similar to those normally performed by an individual occupying any such office, and
 - ii. each of the five highest paid employees of a co-operative, including any individual referred to in subparagraph i;
24. "special resolution" means a resolution that is not effective until it is,
 - i. passed by the directors of a co-operative, and
 - ii. confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the co-operative duly called for that purpose, or such greater proportion of the votes cast as the articles provide;
25. "term loan" means a loan having a fixed date of maturity and includes member and patronage loans having a fixed date of maturity.

**Interpre-
tation:
subsidiary**

(2) For the purposes of this Act, a corporation shall be deemed to be a subsidiary of a co-operative if, but only if, it is controlled by that co-operative.

**Holding
co-operative**

(3) For the purposes of this Act, a co-operative shall be deemed to be a corporation's holding co-operative if, but only if, that corporation is its subsidiary.

Control

(4) For the purposes of this Act, a subsidiary shall be deemed to be controlled by one or more other corporations if, but only if,

- (a) shares of the subsidiary carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such one or more other corporations; and

- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the subsidiary.

(5) For the purposes of this Act, a co-operative is insolvent ^{Insolvency} if its liabilities exceed the realizable value of its assets or if the co-operative is unable to pay its debts as they become due.

(6) In determining the number of members of a co-operative, ^{Number of members} for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one member. 1973, c. 101, s. 1.

2. The Minister may delegate in writing any of his duties <sup>Adminis-
tration</sup> or powers under this Act to any public servant in the Ministry. 1973, c. 101, s. 2.

3. This Act, except where it is otherwise expressly pro- ^{Application} vided, applies,

- (a) to every corporation incorporated as a co-operative by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) to every corporation incorporated as a co-operative by or under a general or special Act of the Parliament of the former Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated as a co-operative by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation to which the *Credit Unions and Caisses Populaires Act* applies. <sup>R.S.O. 1980,
c. 102</sup> 1973, c. 101, s. 3.

INCORPORATION

4.—(1) A co-operative may be incorporated under this <sup>Incorpora-
tion</sup> Act for any lawful objects to which the authority of the Legislature extends, except those of a corporation the incorporation of which is provided for in any other Act.

(2) Where the practice of a profession is governed by an ^{Professions} Act, a co-operative may be incorporated to practise the profession only if such Act expressly permits the practice of the profession by a corporation and subject to the provisions of such Act. 1973, c. 101, s. 4.

Articles of
incorporation

5.—(1) Five or more persons, being,

(a) corporations; or

(b) natural persons who are of the age of eighteen years or more,

and who intend to be members of the co-operative, may incorporate a co-operative with or without share capital by signing and delivering to the Minister in duplicate articles of incorporation. 1978, c. 86, s. 1 (1).

Contents of
articles

(2) Subject to subsection (3), articles of incorporation shall set out the following particulars:

1. The name of the co-operative to be incorporated.
2. The objects for which the co-operative is to be incorporated.
3. The place in Ontario where the head office of the co-operative is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district and the address giving the street and number, if any.
4. The number of directors of the co-operative and the names in full and the residence addresses, giving the street and number, if any, of each person who is to be a first director of the co-operative.
5. The name in full, and the residence address, giving the street and number, if any, of each of the incorporators. 1973, c. 101, s. 5 (2).

Idem

(3) In addition to the particulars required to be set out in subsection (2), articles of incorporation shall state,

(a) where there is to be share capital,

- (i) the authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class and the par value of each share,

- (ii) where there are to be preference shares, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them,
 - (iii) the restrictions to be placed on the transfer of its shares or any class thereof, and
 - (iv) the class and number of shares to be taken by each incorporator and the amount to be paid therefor;
- (b) where there is to be no share capital,

- (i) the amount of the membership fee,
- (ii) the restrictions to be placed on the transfer of member loans,
- (iii) the classes of membership, if any, setting forth the designation of and the terms and conditions attaching to each class of membership, and
- (iv) the amount of a minimum member loan, if any,

and any other matter required by this Act or the regulations to be set out in the articles. 1973, c. 101, s. 5 (3); 1978, c. 86, s. 1 (2).

(4) The articles may set out any provision that is authorized ^{Idem} by this Act to be set out in the articles or that could be the subject of a by-law of the co-operative.

(5) Where the articles name as a first director a person ^{Consent of first_director} who is not an incorporator, the articles shall have attached thereto his written and signed consent to act as a first director. 1973, c. 101, s. 5 (4, 5).

(6) The signature of each incorporator and of each first ^{Affidavits} director and the fact that,

- (a) each incorporator who is a natural person and each first director is of the age of eighteen years or more; and

- (b) each incorporator is to be a member of the co-operative,

shall be verified by affidavit. 1978, c. 86, s. 1 (3).

Certificate of
incorporation

6.—(1) If the articles conform to law and the approval of any person or body required by statute to approve the incorporation has been given, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the articles the word "Filed" and the day, month and year of the filing thereof;

- (b) file one of the duplicates in his office; and

- (c) issue to the incorporators or their agent a certificate of incorporation to which he shall affix the other duplicate.

Idem

(2) A co-operative comes into existence upon the date set forth in its certificate of incorporation.

Idem

(3) A certificate of incorporation is conclusive proof that all conditions precedent required to be performed by the incorporators have been complied with and that the co-operative has been incorporated under this Act, except in a proceeding under section 166 to cancel the certificate for cause. 1973, c. 101, s. 6.

NAME

Use of
"co-
operative"

7.—(1) The corporate name of a co-operative shall include the word "co-operative" as part thereof.

Idem

(2) Where a co-operative or any director, officer, employee or member uses the name of the co-operative, the word "co-operative" may be abbreviated to "co-op".

Idem

(3) No corporation, association, partnership or individual not being a co-operative to which this Act applies shall use in

Ontario a name that includes the word "co-operative" or any abbreviation or derivation thereof whether or not the word, abbreviation or derivation is used in or in connection with the name.

(4) Subsection (3) does not apply to a corporation incorporated by or under the authority of the Parliament of Canada, to a corporation granted an extra-provincial licence, to a corporation incorporated under the laws of Ontario before the 12th day of April, 1917, or to a corporation to which the *Credit Unions and Caisses Populaires Act* applies. 1973, c. 101, s. 7 (1-4). Idem
R.S.O. 1980,
c. 102

(5) Subject to subsection (6), the name of a co-operative incorporated after the 31st day of March, 1974 shall have the word "Incorporated" or "Corporation" or its corresponding abbreviation "Inc." or "Corp." as the last word thereof. 1978, c. 86, s. 2. Use of
"Incor-
porated",
"Corporation"

(6) Where a co-operative has share capital, the name of the co-operative may have the word "Limited" or its abbreviation "Ltd." as the last word thereof. 1973, c. 101, s. 7 (6). Use of
"Limited"

8. Notwithstanding section 7, a co-operative may use its name in such form and in such language as the articles provide and as the Minister approves. 1973, c. 101, s. 8. Use of
name

9.—(1) The name of a co-operative shall not,

Co-operative
name

(a) be the same as or similar to the name of a known corporation, association, partnership or individual whether in existence or not if its use would be likely to deceive, except where the corporation, association, partnership or individual signifies its or his consent in writing to the use of the name in whole or in part, and, if required by the Minister,

(i) in the case of a corporation, undertakes to dissolve or change its name to a dissimilar name within six months after the filing of the articles or amendment by which the name is acquired, or

(ii) in the case of an association, partnership or individual, undertakes to cease to carry on its or his business or activities, or change its or his name to a dissimilar name, within six

months after the filing of the articles or amendment by which the name is acquired;

- (b) suggest or imply a connection with the Crown or the Government of Canada or the government of a municipality or any province or territory of Canada or any department, branch, bureau, service, agency or activity of any such government or municipality without the consent in writing of the appropriate authority;
- (c) suggest or imply a connection with a political party or a leader of a political party;
- (d) contain any word or phrase that indicates or implies that it is incorporated for any object other than one or more of the objects set out in its articles;
- (e) contain any word or phrase or any abbreviation or derivation thereof, the use of which is prohibited or restricted under any other Act unless in the latter case the restrictions are complied with; or
- (f) in the opinion of the Minister, be objectionable on any public grounds.

Change of
name if
objectionable

(2) If a co-operative through inadvertence or otherwise has acquired a name contrary to subsection (1), the Minister may, after he has given the co-operative an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the co-operative to the name specified in the certificate, and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to
perform
undertaking

(3) Where an undertaking referred to in clause (1) (a) is given by a co-operative and the undertaking is not carried out within the time specified, the Minister may, after giving the co-operative an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the co-operative to the name specified in the certificate, and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(4) Where an undertaking referred to in clause (1) (a) is given by a corporation to which this Act does not apply or by an association, partnership or individual and the undertaking is not carried out within the time specified, the Minister may, after giving the

co-operative that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the co-operative to the name specified in the certificate, and, upon the issuance of the certificate, the articles are amended accordingly. 1973, c. 101, s. 9.

10. A change in the name of a co-operative does not affect its rights or obligations. 1973, c. 101, s. 10. Change not to affect rights, etc.

11. Where a co-operative carries on business or identifies itself to the public in a name or style other than as provided in the articles, such name or style shall not include the word "Limited", "Incorporated" or "Corporation" or any abbreviation thereof. 1973, c. 101, s. 11. Unauthorized use of "Limited", etc.

12.—(1) Any person may, on application in writing and on the payment of the prescribed fee, reserve a corporate name for the use and benefit of the applicant or his nominee for a period of ninety days or such lesser period as he specifies, if the name is at the time not contrary to section 9, Reservation of name

(2) During the period for which the name has been reserved, no corporation shall acquire the name or a similar name without the consent in writing of the person for whose use and benefit the name has been reserved. 1973, c. 101, s. 12. Idem

SEAL AND HEAD OFFICE

13.—(1) A co-operative shall have a seal which shall be adopted and may be changed by resolution of the directors. Corporate seal

(2) The name of the co-operative shall appear in legible characters on the seal. 1973, c. 101, s. 13. Idem

14.—(1) Subject to subsection (2), a co-operative shall at all times have its head office at the place in Ontario where the articles provide that the head office is to be located. Head office

(2) A co-operative may by by-law change the municipality or geographic township in which its head office is located to another place in Ontario. Change of head office

(3) Where the location of the head office of a co-operative is changed by reason only of the annexation or amalgamation of the place in which the head office is located Where municipality annexed or amalgamated

to or with another municipality, such change does not constitute and has never constituted a change within the meaning of subsection (2).

Filing of
by-law

(4) The co-operative shall, within ten days after a by-law passed under subsection (2) has been confirmed by the members, file a certified copy of the by-law with the Minister.

Change of
street
address

(5) A co-operative may by resolution of the directors change the location of its head office within a municipality or geographic township and shall, within ten days after the passing of the resolution, file with the Minister notice of the change giving the address including the street and number, if any, of the new location.

Validity

(6) Failure to comply with subsection (4) or (5) does not affect the validity of the by-law or resolution. 1973, c. 101, s. 14.

POWERS

General

Corporate
charac-
teristics

15.—(1) Every co-operative has power,

- (a) to have perpetual succession;
- (b) to contract and sue and be sued in its corporate name; and
- (c) to carry on business in or identify itself to the public by a name or style other than its corporate name.

Incidental
powers

(2) A co-operative has power as incidental and ancillary to the objects set out in its articles,

1. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of any of its property or rights;
2. to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the co-operative is authorized to carry on;
3. to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights;

4. to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person or corporation carrying on or engaged in or about to carry on or engage in any business or transaction that the co-operative is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the co-operative;
5. where authorized to do so by resolution of the board of directors and where it is necessary to enable the co-operative to improve its services to its members, to take or otherwise acquire and hold securities in any other corporation having objects altogether or in part similar to those of the co-operative or carrying on any business capable of being conducted so as to benefit the co-operative;
6. to lend money to any other corporation or any firm or person having dealings with the co-operative or with whom the co-operative proposes to have dealings or to any other corporation any of whose shares are held by the co-operative;
7. to apply for, secure or acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, and to exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege, that any government or authority or any corporation or other public body may be empowered to grant, and to pay for, aid in and contribute towards carrying it into effect and to assume any liabilities or obligations incidental thereto;
8. to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the co-operative or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;
9. to promote any corporation for the purpose of acquiring or taking over any of the property and liabilities of the co-operative or for any other purpose that may benefit the co-operative;

10. to purchase, lease, take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the co-operative considers necessary or convenient for the purposes of its business;
11. to construct, maintain and alter any buildings or works necessary or convenient for its objects;
12. to acquire by purchase, lease or otherwise and hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it;
13. to take, hold and alienate real and personal property that has in good faith been mortgaged to the co-operative by way of security for, or conveyed to it in satisfaction of, debts previously contracted in the course of its business, or purchased at judicial sales upon levy for such indebtedness, or otherwise purchased for the purpose of avoiding a loss to the co-operative;
14. to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, water-courses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences that may advance the interests of the co-operative and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
15. to raise and assist in raising money for, and aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or corporation and guarantee the performance or fulfilment of any contracts or obligations of any person or corporation, and in particular guarantee the payment of the principal of and interest on the debt obligations of any such person or corporation;
16. to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments;
17. where authorized to do so by a special resolution and by such additional authorization as the articles provide, to sell, lease, exchange or otherwise dispose

of all or substantially all the property of the co-operative for such consideration as the co-operative thinks fit;

18. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the co-operative in the ordinary course of its business;
19. to adopt such means of making known the products or services of the co-operative as may seem expedient, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes and rewards and making donations;
20. to cause the co-operative to be registered and recognized in any foreign jurisdiction or any province or territory of Canada, and designate persons therein according to the laws of that foreign jurisdiction or that province or territory of Canada to represent the co-operative and to accept service for and on behalf of the co-operative of any process or suit;
21. to allot and issue fully-paid shares of the co-operative in payment or part payment of any property purchased or otherwise acquired by the co-operative or for any past services performed for the co-operative;
22. to distribute among the members of the co-operative in cash, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner deemed advisable, any property of the co-operative, but not so as to decrease the capital of the co-operative unless the distribution is made for the purpose of enabling the co-operative to be dissolved or the distribution, apart from this paragraph, would be otherwise lawful;
23. to establish agencies and branches;
24. to take or hold mortgages, hypothecs, liens and charges to secure payment of the purchase price, or of any unpaid balance of the purchase price, of any part of the property of the co-operative of whatsoever kind sold by the co-operative, or for any money due to the co-operative from purchasers and others and to sell or otherwise dispose of any such mortgage, hypothec, lien or charge;

25. to pay all costs and expenses of or incidental to the incorporation and organization of the co-operative;
26. to invest and deal with the moneys of the co-operative not immediately required for the objects of the co-operative in such manner as may be determined;
27. to do any of the things authorized by this subsection and all things authorized by its articles as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
28. to do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the co-operative.

Limited
by articles

(3) Any of the powers set out in subsection (2) may be withheld or limited by the articles.

Powers to
act outside
of Ontario

(4) Every co-operative may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. 1973, c. 101, s. 15.

Acting
outside
powers

16.—(1) No act of a co-operative and no transfer of real or personal property to or by a co-operative, otherwise lawful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the co-operative was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted,

- (a) in a proceeding against the co-operative by a member under subsection (2);
- (b) in a proceeding by the co-operative, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through members in a representative capacity, against a director or officer or former director or officer of the co-operative; or
- (c) as cause for the cancellation of the certificate of incorporation of the co-operative under section 166.

Restraining
order

(2) A member of a co-operative may apply to a court of competent jurisdiction for an order to restrain the co-operative from doing any act or transferring or receiving the transfer of real or personal property on the ground that the co-operative lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the co-operative from doing the act or transferring

or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the co-operative is a party,

(a) all the parties to the contract shall be parties to the proceeding;

(b) the court in granting the order may set aside the contract and allow the co-operative or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract. 1973, c. 101, s. 16.

17.—(1) A co-operative shall not make loans to any of its members, directors or employees or give directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance to any member, director or employee, except in the course of transactions of a type available to all members of the co-operative.

Loans to
members,
directors,
etc.

(2) Those directors and officers of a co-operative who authorize or consent to making a loan or giving financial assistance in contravention of subsection (1) are jointly and severally liable to the co-operative and to its creditors for any actual loss to the co-operative together with interest at the rate of 6 per cent a year. 1973, c. 101, s. 17.

Liability of
directors
and officers

Contracts

18.—(1) A contract that if entered into by an individual person would by law be required to be in writing and under seal may be entered into on behalf of a co-operative in writing under the seal of the co-operative.

Contracts in
writing
under seal

(2) A contract that if entered into by an individual person would by law be required to be in writing signed by the parties to be charged therewith may be entered into on behalf of a co-operative in writing signed by any person acting under its authority, express or implied.

Contracts in
writing not
under seal

(3) A contract that if entered into by an individual person would by law be valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a co-operative by any person acting under its authority, express or implied. 1973, c. 101, s. 18.

Parol
contracts

Power of
attorney

19. A co-operative may, by writing under seal, empower any person, either generally or in respect of any specified matters, to execute, as its attorney and on its behalf in any place within or outside Ontario, documents to which it is a party in any capacity and that are required by law to be under seal, and every document signed by such attorney on behalf of the co-operative acting within the scope of his authority, express or implied, and under his seal binds the co-operative and has the same effect as if it were under the seal of the co-operative. 1973, c. 101, s. 19.

Interpre-
tation

20.—(1) In this section,

- (a) “contractor” means a person who enters into a preincorporation contract in the name of or on behalf of a co-operative before its incorporation;
- (b) “other party” means a person with whom a contractor enters into a preincorporation contract;
- (c) “preincorporation contract” means a contract entered into by a contractor in the name of or on behalf of a co-operative before its incorporation.

Adoption of
preincor-
poration
contracts

(2) A co-operative may adopt a preincorporation contract entered into in its name or on its behalf, and thereupon the co-operative is entitled to the benefits and is subject to the liabilities that were contracted in its name or on its behalf and the contractor ceases to be entitled to such benefits or to be subject to such liabilities.

Non-
adoption of
preincor-
poration
contracts

(3) Where a preincorporation contract is not adopted by a co-operative, the contractor is entitled to the benefits and subject to the liabilities under the contract and is entitled to recover from the co-operative the value of any benefit received by the co-operative under the contract.

Application
to court
for relief

(4) Whether or not a preincorporation contract is adopted by the co-operative, the other party may apply to the court which may, notwithstanding subsections (2) and (3), make an order fixing or apportioning liability as between the contractor and the co-operative in any manner the court considers just and equitable under the circumstances. 1973, c. 101, s. 20.

By-Laws and Resolutions

By-laws

21. The directors may pass by-laws not contrary to this Act or to the articles to regulate,

- (a) the allotment and issue of shares, the payment thereof, the issue of share certificates and the transfer and the registration of transfers of shares;
- (b) the admission of persons as members and as *ex officio* members and the qualification of and the conditions of membership;
- (c) the time for and the manner of election of directors;
- (d) the qualification and remuneration of directors including conditions on eligibility of directors of the co-operative by reference to a minimum annual volume of business conducted by a director with the co-operative;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the co-operative and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of the members and of the board of directors, the quorum at meetings of members and the procedure in all things at members' meetings and at meetings of the board of directors;
- (g) the payment of fees and dues of members;
- (h) the issue of membership cards and loan certificates;
- (i) the suspension and termination of memberships by the co-operative and by the members;
- (j) the conduct in all other particulars of the affairs of the co-operative. 1973, c. 101, s. 21.

22. A by-law relating to the remuneration of a director as director shall fix the remuneration and the period for which it is to be paid. 1973, c. 101, s. 22.

Remuneration of directors

23. No by-law is effective until it is,

Passing of by-laws

- (a) passed by the directors of a co-operative; and
- (b) confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the co-operative duly called for that purpose, or such greater proportion of the votes cast as the articles provide. 1973, c. 101, s. 23.

Member Groups and Delegates

By-laws
re delegates

24.—(1) The directors may pass by-laws providing for,

- (a) the division of its members into groups, either territorially or on the basis of common interest;
- (b) the election of some or all of its directors,
 - (i) by such groups on the basis of the number of members in each group or the volume of business done by each group with the co-operative, or both, or
 - (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;
- (c) the election of delegates and alternate delegates to represent each group on the basis of the number of members in each group or the volume of business done by each group with the co-operative, or both;
- (d) where a member is a co-operative, the election or appointment of delegates and alternate delegates to represent the member co-operative on the basis of the number of members in the member co-operative or the volume of business done with the co-operative, or both;
- (e) the method of electing or appointing delegates and the number of delegates;
- (f) the holding of meetings of delegates;
- (g) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members;
- (h) the holding of meetings of members or delegates territorially or on the basis of common interest;
- (i) the payment of remuneration and expenses of delegates attending meetings. 1973, c. 101, s. 24 (1); 1978, c. 86, s. 3 (1).

(2) A delegate has only one vote and shall not vote by ^{Voting} proxy. 1973, c. 101, s. 24 (2).

(3) No person shall be elected or appointed a delegate ^{Qualifi-} who is not a member, officer or director of the co-operative ^{cation} of delegates or of a member co-operative. 1978, c. 86, s. 3 (2).

(4) No by-law under subsection (1) shall prohibit members from ^{Saving} attending meetings of delegates and participating in the discussions at such meetings. 1973, c. 101, s. 24 (4).

CAPITAL

Authorized Capital

25.—(1) The authorized capital of a co-operative shall ^{Shares} be divided into shares with par value and may consist of shares of more than one class.

(2) Each class of shares shall have a par value of \$1 or ^{Par value} any multiple thereof not exceeding \$100.

(3) The authorized capital of the co-operative shall be ^{Authorized capital} expressed in Canadian currency in its articles and is an amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof. 1973, c. 101, s. 25.

26.—(1) The common shares of a co-operative shall be shares ^{Common shares} to which there is attached no preference, right, condition, restriction, limitation or prohibition set out in the articles of the co-operative other than the restriction on the allotment, issue or transfer.

(2) Where a co-operative has only one class of shares, ^{Classes of shares} that class shall be common shares and designated as co-operative or co-op common shares.

(3) Where a co-operative has more than one class of shares, ^{Idem} one class shall be common shares, designated as provided in subsection (2), and the other shares shall consist of one or more classes of preference shares and shall have attached thereto the designation co-operative or co-op preference shares and such other designation and preferences, rights, conditions, restrictions, limitations or prohibitions as set out in the articles.

Preference
shares

(4) No class of preference shares shall be designated as preference shares or by words of like import, unless the class has attached thereto a preference or right over the common shares. 1973, c. 101, s. 26.

Preferences,
rights, etc.

27. A co-operative may issue one or more classes of preference shares having attached thereto preferences, rights, conditions, restrictions, limitations or prohibitions, including but not limited to,

- (a) the right to cumulative, non-cumulative or partially cumulative dividends;
- (b) a preference over any other class or classes of shares as to the payment of dividends;
- (c) a preference over any other class or classes of shares as to the repayment of the par value together with any dividends declared but unpaid upon the dissolution of the co-operative or otherwise;
- (d) the right of the co-operative to redeem, without the consent of the holders thereof, all or a part of the shares of that class at their par value together with any dividends declared but unpaid. 1973, c. 101, s. 27.

Equality of
shares of
a class

28. Each share of a class shall be the same in all respects as every other share of that class. 1973, c. 101, s. 28.

Issued Capital

Issued
capital

29. The issued capital of a co-operative shall be expressed in Canadian currency and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof less such decreases in the issued capital as from time to time have been effected by the co-operative in accordance with this Act. 1973, c. 101, s. 29.

Cancellation
of par share

30.—(1) Where an issued share of a class is cancelled, the issued capital is decreased by an amount equal to the par value of the shares of that class.

Cancellation
of fractions
of shares

(2) Where a fraction of an issued share of a class is cancelled, the issued capital is decreased by an amount that bears the

same proportion to the amount determined under subsection (1) that the fraction bears to a whole share of that class. 1973, c. 101, s. 30.

Redemption, Purchase and Surrender

31.—(1) Where the articles provide that the shares of a class of preference shares are redeemable without the consent of the holders thereof and part only of the preference shares are to be redeemed, the shares to be redeemed shall be selected,

Redemption
of preference
shares

- (a) by lot in such manner as the board of directors determines;
- (b) as nearly as may be in proportion to the number of preference shares of the class registered in the name of each holder of shares of that class; or
- (c) in such other manner as the board of directors determines with the consent of the holders of preference shares of the class obtained in the manner set out in subsection (2),

but the articles may confine the manner of selection to one or more of those methods set out in clauses (a), (b) and (c).

(2) A co-operative shall not redeem shares under subsection (1) if the co-operative is insolvent or if the redemption would render the co-operative insolvent.

Insolvency

(3) Where shares of a class of preference shares are selected in the manner referred to in clause (1) (c), the selection shall be consented to in writing by,

Method of
redemption

- (a) all the holders of the preference shares of the class; or
- (b) at least 95 per cent of the holders of the preference shares of the class holding at least 95 per cent of the issued shares of that class if, after twenty-one days notice has been given by sending notice to each of the holders of shares of that class addressed to him at his latest address as shown on the records of the co-operative, none of the holders of shares of that class dissents in writing to the co-operative.

(4) Where a holder of redeemable preference shares of a co-operative dies or leaves its employment, notwithstanding subsection (1), it may within one year of such event redeem

Idem

all or any of the preference shares held by him. 1973, c. 101, s. 31.

Purchase of
preference
and common
shares

32.—(1) Subject to subsection (2), a co-operative,

(a) with the consent of the holder thereof, may purchase all or a part of the shares in the co-operative held by any person upon payment of such an amount to that person as is agreed upon not exceeding the par value of the shares together with any dividends declared but unpaid;

(b) when a corporate member is about to be dissolved or a member has failed for a period of two years to transact any business with the co-operative, may redeem without the consent of such member his shares upon payment to him of an amount equal to the book value or par value of such shares, whichever is the lesser. 1973, c. 101, s. 32 (1); 1978, c. 86, s. 4 (1).

Insolvency

(2) A co-operative shall not purchase or redeem shares under subsection (1) if the co-operative is insolvent or if the purchase would render the co-operative insolvent. 1973, c. 101, s. 32 (2).

Method

(3) Where shares are purchased or redeemed by a co-operative under subsection (1) or where preference shares are redeemed pursuant to the articles,

(a) if the articles so require, the shares shall be cancelled and thereupon the authorized and issued capital of the co-operative are thereby decreased, and the articles are amended accordingly;

(b) if the articles do not require the shares to be cancelled,

(i) the board of directors may at the time of the purchase or redemption cancel the shares in which case the authorized and issued capital of the co-operative are thereby decreased and the articles are amended accordingly; or

(ii) the board of directors may resell the shares at such time as it determines for a consideration equal to the product of the number of shares resold multiplied by the par value thereof. 1973, c. 101, s. 32 (3); 1978, c. 86, s. 4 (2).

33.—(1) A co-operative may accept from any member a donation of any of its shares without any repayment of capital in respect thereof. 1973, c. 101, s. 33 (1). Donation
of shares

(2) Shares accepted under subsection (1) are not thereby cancelled and the board of directors may sell the shares at such time as it determines for a consideration equal to the product of the number of shares sold multiplied by the par value thereof. 1978, c. 86, s. 5. Sale of
donated
shares

Offering Statement

34.—(1) No co-operative or person shall sell, dispose of, or accept directly or indirectly any consideration for securities of the co-operative where the co-operative has more than fifteen security holders, or where the sale or disposition of or acceptance of consideration for such securities would have the effect of increasing the number of security holders in the co-operative to more than fifteen, unless the co-operative has filed with the Minister an offering statement and has obtained a receipt therefor. Offering
statement

(2) Subsection (1) does not apply to,

Exception

(a) the issue of shares under subsection 56 (1) or of debt obligations under subsection 56 (4); or

(b) a co-operative that has filed with the Ontario Securities Commission both a preliminary prospectus and a prospectus in respect of the offering of its securities and receipts therefor have been obtained from the Director of the Ontario Securities Commission and copies thereof have been filed with the Minister. 1978, c. 86, s. 6.

35.—(1) An offering statement shall provide full, true and plain disclosure of all material facts relating to the securities proposed to be issued. Standard of
disclosure

(2) An offering statement shall comply as to form and content with the requirements of this Act and the regulations. Form and
content

(3) There shall be filed with an offering statement such documents, reports and other material as are required by this Act and the regulations. Supporting
material

(4) Where there is a material change in the facts set forth in an offering statement, whether before or after the issuance Material
changes

of a receipt therefor, the co-operative shall, within thirty days of that change, file with the Minister a statement of such change.

**Further
statements**

(5) A co-operative may, and shall if required by the Minister, file a further offering statement revised to give effect to all previous material changes in place of the statement of material change mentioned in subsection (4). 1973, c. 101, s. 35.

**Issue of
receipts**

36.—(1) The Minister may in his discretion issue a receipt for any statement filed under section 34 or subsection 35 (4) or (5) unless it appears to the Minister that,

- (a) the statement or any document required to be filed therewith,
 - (i) fails to comply in any substantial respect with any of the requirements of this Act or the regulations,
 - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
 - (iii) conceals or omits to state any material facts necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made; or
- (b) the proceeds from the sale of the securities to which the statement relates that are to be paid into the treasury of the co-operative, together with other resources of the co-operative, are insufficient to accomplish the purpose of the issue stated in the statement.

Idem

(2) The Minister shall not make any determination under subsection (1) without making an order or ruling in writing and without giving the co-operative that filed the statement a prior opportunity to be heard. 1973, c. 101, s. 36.

**Inspection of
statement**

37.—(1) A copy of a statement for which the Minister has issued a receipt under section 36 shall be open to inspection,

- (a) at the offices of the Ministry; and
- (b) during normal business hours, at the head office of the co-operative.

(2) No person shall refuse to permit a person to inspect ^{Extracts} such statements or to make extracts therefrom. 1973, c. 101, s. 37.

38. A co-operative already in existence when this Act ^{Transition} comes into force shall have a period of 180 days from that date during which to comply with sections 34 to 37. 1973, c. 101, s. 38.

Allotment, Issue and Transfer

39.—(1) Shares shall not be allotted or issued except for a ^{Issue of shares} consideration equal to the product of the number of shares allotted or issued multiplied by the par value thereof. 1973, c. 101, s. 39 (1); 1978, c. 86, s. 7.

(2) No share shall be issued until it is fully paid and a ^{Consideration for shares} share is not fully paid until all the consideration therefor in cash, property or services, as determined under this section, has been received by the co-operative.

(3) For the purposes of subsection (2) and paragraph 21 of ^{Idem} subsection 15 (2), a document evidencing indebtedness of the allottee does not constitute property, and services shall be past services actually performed for the co-operative, and the value of property or services shall be the value the directors determine by express resolution to be in all the circumstances of the transaction the fair equivalent of the cash value. 1973, c. 101, s. 39 (2, 3).

40. No transfer of common shares in a co-operative with ^{Restriction on transfer of common shares} share capital, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction or by transmission to the personal representative of a member, is valid for any purpose unless,

- (a) the transfer has been authorized by resolution of the directors of the co-operative or by a person authorized by such a resolution to approve such transfers;
- (b) the transferee is admitted to membership in the co-operative as required by its articles and by-laws; and
- (c) the entry thereof has been duly made in the register of transfers of the co-operative or in a branch register of transfers,

except only as evidence of the rights of the parties thereto towards each other. 1973, c. 101, s. 40.

41.—(1) A co-operative may provide by by-law for the ^{Commission on sale of shares} payment of commissions to persons in consideration of their

procuring subscriptions for shares in the co-operative, but no such commission shall exceed 10 per cent of the par value of the shares.

No
unauthorized
commission

(2) Except as provided in subsection (1), no co-operative shall apply any of its shares or capital, either directly or indirectly, in payment of any commission to any person in consideration of his procuring subscriptions for shares of the co-operative, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the co-operative or to the contract price of any work to be executed for the co-operative, or is paid out of the nominal purchase money or contract price or otherwise. 1978, c. 86, s. 8.

Shares
personal
property

42. The shares of a co-operative are personal property and are transferable in such manner and subject to such conditions and restrictions as are prescribed by this Act and the articles of the co-operative. 1973, c. 101, s. 42.

Lien on
shares

43. Where a member is indebted to the co-operative for goods or services, and where the articles or by-laws so provide, the co-operative has a lien to the extent of the debt on the shares registered in the name of the member. 1978, c. 86, s. 9.

Share and Loan Certificates

Share and
loan
certificates

44.—(1) Every member is entitled to a share or loan certificate in respect of the shares held or loans made by him, signed by the proper officers in such form as the by-laws of the co-operative provide, but in no case is the co-operative bound to issue more than one share or loan certificate in respect of a share or shares held or a loan made jointly by several persons, and delivery of a share or loan certificate to one of several joint holders or lenders is sufficient delivery to all.

Fee

(2) A co-operative may charge a fee of not more than \$1 for every share certificate issued, except that in the case of the allotment and issue of shares, no fee shall be charged. 1973, c. 101, s. 44.

Signing of
certificate

45. A share or loan certificate shall be signed manually by at least one officer of the co-operative or by or on behalf of a transfer agent of the co-operative, and the co-operative may by by-law provide that any additional signatures required on share or loan certificates may be printed, engraved, lithographed or otherwise mechanically reproduced thereon, and in such event share or loan certificates so signed are as valid as if they had been signed manually. 1973, c. 101, s. 45.

46.—(1) Every share or loan certificate shall state upon its face, Contents of certificates

- (a) the name of the co-operative and the words "A co-operative incorporated under the law of the Province of Ontario" or words of like effect;
- (b) the name of the person to whom the share or loan certificate is issued as holder;
- (c) the amount, maturity date and annual rate of interest where the certificate represents a loan;
- (d) the number and class of shares represented thereby and the par value thereof where the certificate represents shares;
- (e) a statement of the dividend rate, where applicable.

(2) Every share certificate shall have noted conspicuously thereon the words "Transfer of these shares is restricted". Restrictions to be noted

(3) Where the articles or by-laws provide that a co-operative has a lien on shares as authorized by section 43, the right of the co-operative to the lien shall be noted conspicuously on every share certificate issued by the co-operative. Notice of lien

(4) In this section, "noted conspicuously" means written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them. Interpretation
1973, c. 101, s. 46.

47.—(1) A share certificate issued for a share of a class of preference shares shall, Contents of preference share certificate

- (a) legibly state on the certificate or have attached thereto a legible statement of the preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class of shares; or
- (b) legibly state on the certificate that there are preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class and that a copy of the full text thereof is obtainable on demand and without fee from the co-operative.

(2) Where a share certificate contains a statement as provided in clause (1) (b), the co-operative shall furnish to the holder of the shares on demand without fee a copy of the full text of the preferences, rights, conditions, restrictions, prohibitions and limitations attaching to the share. 1973, c. 101, s. 47. Idem

Fractional
shares

48. Where, as a result of a change in authorized capital of a co-operative, a person becomes entitled to a fraction of a share, he is not entitled to be registered on the records of the co-operative in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction, and on presentation at the head office of the co-operative or at a place designated by the co-operative of bearer fractional certificates for fractions that together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor. 1973, c. 101, s. 48.

Loan Capital

Member
loans

49.—(1) The capital of co-operatives without share capital may be in the form of loans from members, called "member loans", and such loans may be in such amounts, payable on demand or at such times and without interest or at interest not exceeding 10 per cent per annum, or if authorized by by-law of the co-operative, at such a lesser rate as the board of directors may by resolution determine. 1973, c. 101, s. 49 (1); 1978, c. 86, s. 10 (1).

Borrowing
from
members

(2) A co-operative may borrow money from its members not being loans made as a condition of membership or as compulsory loans of patronage returns, in such amounts payable on demand or at such times and either without interest or with interest at such rate as the by-laws provide or, if authorized by by-law, at such rate as the directors may by resolution determine. 1973, c. 101, s. 49 (2).

Termination
of
membership

(3) Where a member of a co-operative without share capital,

(a) has failed to transact any business with the co-operative for a period of two years; or

(b) is a corporate member about to be dissolved,

then the directors of the co-operative may, by resolution passed by a majority of the board, terminate the membership and upon termination the co-operative, subject to section 67, shall repay to the member the amount outstanding on loans to the co-operative that are repayable on demand by the member together with interest accrued thereon. 1978, c. 86, s. 10 (2).

Borrowing Powers

Borrowing
powers

50.—(1) Where authorized by by-law, the directors may,

(a) borrow money on the credit of the co-operative; or

(b) issue, sell or pledge debt obligations of the co-operative; or

(c) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal movable or immovable property of the co-operative, including book debts, rights, powers, franchises and undertaking, to secure any debt obligations or any money borrowed or other debt or liability of the co-operative.

(2) Any by-law referred to in subsection (1) may,

Contents
of by-law

(a) limit the amount to be borrowed as determined by the by-law; and

(b) provide for the delegation by the directors of the powers conferred on them under the by-law to such directors or officers of the co-operative and to such extent and manner as is set out in the by-law. 1973, c. 101, s. 50.

51. Nothing in this Act prohibits the issue of debt obligations in bearer form. 1973, c. 101, s. 51.

Bearer
debt
obligations

52. A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. 1973, c. 101, s. 52.

Irredeemable
debt
obligations

53.—(1) Where a co-operative makes a charge, mortgage or other instrument of hypothecation or pledge to secure its debt obligations, the co-operative shall forthwith after the making thereof file a duplicate original or certified copy of the instrument in the office of the Minister, but such filing may be made by any interested person.

Filing
debt
obligations

(2) Where the filing is by an interested person under subsection (1), that person is entitled to recover from the co-operative the amount of any prescribed fee paid by him on such filing.

Recovery
of fee

(3) Subsection (1) does not apply to an instrument filed or registered under any other Act. 1973, c. 101, s. 53.

Exception

DIVIDENDS AND SURPLUS

54. A co-operative may by by-law provide that, before any distribution of surplus arising from the business of the co-operative in each fiscal year is made, the co-operative may,

Reserve
fund and
dividends

(a) set aside reserve funds;

(b) provide for the payment of dividends on the share capital at a rate not to exceed 10 per cent per annum

of the amount paid up thereon or of the par value thereof, whichever is the lesser. 1973, c. 101, s. 54; 1978, c. 86, s. 11.

Surplus

Distribution
of net
surplus

55.—(1) Subject to subsection (4), the surplus arising from the business of a co-operative, other than a direct charge co-operative, in each fiscal year shall be allocated, credited or paid to the members in proportion to the business done by each member with or through the co-operative, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the member or by the co-operative from or on behalf of or to the member, or the co-operative whether as principal or as agent of the member or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof.

Idem

(2) The co-operative may by by-law provide that part of the surplus may be allocated, credited or paid to non-members at the same or at lesser rates than to members.

Patronage
return

(3) The amount that is allocated, credited or paid to members or non-members in each fiscal year shall be known as the patronage return.

Limitation
of patronage
return

(4) The co-operative may by by-law provide that, where the value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the co-operative from or on behalf of or to any member or non-member in any year does not exceed \$250, or such lesser amount as is specified in the by-law, no patronage return shall be allocated, credited or paid to such member or non-member.

Marketing
boards

(5) Where members of a co-operative are required by a marketing plan established under an Act of the Legislature, or of the Parliament of Canada, to sell or deliver products or goods or render services to or for a marketing board, then for the purposes of making a patronage return to the members of the co-operative, the members shall be deemed to have sold, delivered or rendered those goods, products or services to the co-operative. 1973, c. 101, s. 55.

Investment
of patronage
return

56.—(1) A co-operative may by by-law provide that in each fiscal year the whole, or such part as the directors may by resolution determine, of the patronage return of each member shall be applied to the purchase for the member of a stated number of unissued shares of the co-operative or a stated number of issued shares of the co-operative, if obtainable.

Notice

(2) Where a co-operative has enacted a by-law under subsection (1) and the whole or part of the patronage return of a

member is required to be invested in issued shares, the co-operative shall mail a written notice to each member stating the number of shares to be purchased by him.

(3) Unless within thirty days from the date of mailing of the notice referred to in subsection (2), the member required to purchase issued shares has presented for transfer to himself the number of shares that he is required to purchase, the co-operative may on behalf of such member, ^{Purchase of shares on behalf of member}

(a) purchase the required number of shares from members who are willing to sell such shares;

(b) pay out of the patronage return of such member the purchase price;

(c) transfer such shares to the member; and

(d) issue and forward to such member a certificate representing such shares. 1973, c. 101, s. 56 (1-3).

(4) A co-operative may enact by-laws requiring its members to lend to it the whole, or such part as the directors may determine, of the patronage returns to which they may become entitled in each fiscal year upon such terms and at such rate of interest as the directors, if authorized by by-law, may by resolution determine, but in no case at a rate of interest greater than 10 per cent per annum. 1973, c. 101, s. 56 (4); 1978, c. 86, s. 12. ^{Compulsory borrowing}

(5) No member shall be required under this section to purchase issued or unissued shares at a price in excess of the par value thereof or issued shares when no such shares are available for purchase. ^{Idem}

(6) Where the co-operative is insolvent, no member shall be required under this section to lend his patronage return or to purchase shares of the co-operative. ^{Idem}

(7) This section does not prevent a member from receiving so much of his patronage return as has not been appropriated to loans to the co-operative in accordance with a resolution of the board of directors or the by-laws. 1973, c. 101, s. 56 (5-7). ^{Idem}

57.—(1) A co-operative may, when authorized by by-law, deduct a percentage amount from the moneys received by the co-operative on the goods, products or services marketed, handled or dealt in by the co-operative for or on behalf of any member. 1973, c. 101, s. 57 (1). ^{Percentage deductions by co-operative}

(2) An amount retained by a co-operative under subsection (1) shall be applied by the co-operative, ^{Idem}

- (a) as a loan on such terms and at such rate of interest not exceeding 10 per cent per annum as the by-law provides; or
- (b) as an investment by the member in common shares of the co-operative, but no member shall be required to purchase such shares in the co-operative at a price in excess of the par value thereof. 1973, c. 101, s. 57 (2); 1978, c. 86, s. 13.

Dividends

Power to
declare
dividends

58.—(1) Subject to subsection (2) and the articles of the co-operative, the directors may declare and the co-operative may pay dividends on its issued shares. 1973, c. 101, s. 58 (1).

Not to
exceed 10
per cent

(2) A dividend shall not exceed 10 per cent per annum of the par value of the share. 1973, c. 101, s. 58 (2); 1978, c. 86, s. 14.

Manner of
payment

(3) A dividend may be paid in cash or in property not exceeding in value the amount of the dividend.

When
dividend
not to be
declared

(4) The directors shall not declare and the co-operative shall not pay any dividend when the co-operative is insolvent, or any dividend the payment of which renders the co-operative insolvent or that diminishes its capital. 1973, c. 101, s. 58 (3, 4).

Stock
dividends

59. For the amount of any dividend that the directors may declare payable in cash, they may declare a stock dividend and issue therefor shares of the co-operative as fully paid. 1973, c. 101, s. 59.

MEMBERS

Membership

Membership

60.—(1) Subject to the provisions of this Act and the articles of the co-operative, membership therein is governed by the by-laws of the co-operative.

Classes of
membership

(2) The articles of a co-operative may provide for more than one class of membership and in that case shall set forth the designation of and the terms and conditions attaching to each class. 1973, c. 101, s. 60.

Incor-
porators
deemed
members

61.—(1) Each incorporator of a co-operative who has subscribed for a common share in the co-operative or who has paid a membership fee, if any, shall upon the effective date of incorporation be entered upon the register of members.

(2) No person shall become a member of a co-operative until his application for membership has been approved by the directors and the applicant has complied fully with the by-laws governing admission of members. Applicants for membership

(3) A subscription for common shares in a co-operative with share capital constitutes an application for membership and the allotment of a common share to the applicant constitutes admission to membership. Idem

(4) An application for authorization of the transfer of common shares in a co-operative with share capital constitutes an application for membership and the passing of the resolution authorizing the transfer constitutes admission to membership. 1973, c. 101, s. 61. Idem

62. No transfer of a membership in a co-operative without share capital is valid for any purpose whatever, Restrictions on transfer of memberships

(a) unless a written application for membership by the transferee has been approved by a resolution of the directors of the co-operative or by a person authorized by such a resolution to approve such applications; and

(b) until notification of the approval under clause (a) has been sent the transferee and his name has been entered on a register of members,

except only as evidence of the rights of the parties thereto towards each other. 1973, c. 101, s. 62.

63.—(1) Subject to the by-laws of the co-operative, a person of the full age of sixteen years or more may become a member thereof. Eligible age for members

(2) Any person under the full age of eighteen years admitted to membership in the co-operative is competent to enter into any contract with the co-operative, and with respect to contracts with the co-operative is *sui juris*. 1973, c. 101, s. 63. Members sui juris

64.—(1) Subject to section 67, a member may withdraw from a co-operative by giving to the secretary of the co-operative six months notice of his intention to withdraw. Notice of withdrawal

(2) A deceased member shall be deemed to have given notice to the co-operative on the day of his death of his intention to withdraw. Idem

(3) Subject to subsection (4), where notice of intention to withdraw has been given to a co-operative under subsection (1), Repayment to members on withdrawal

or is deemed to have been given under subsection (2), the co-operative shall, within six months of the receipt thereof,

- (a) purchase for an amount equal to the par value together with all dividends declared but unpaid or for an amount that is less than par value and that is agreed to by the co-operative and the member or his personal representative, all shares in the co-operative held by the member; and
- (b) pay to him or his personal representative all amounts held to his credit, excluding term loans, together with any interest accrued thereon and the amount outstanding on loans made to the co-operative by the member that are repayable on demand by the member together with any interest accrued thereon. 1973, c. 101, s. 64 (1-3).

Election by member

(4) Notwithstanding subsection (3), a member who has given notice under subsection (1) may elect in such notice to retain all or some of his shares or loans in the co-operative, but such election shall not entitle him to remain a member of the co-operative. 1978, c. 86, s. 15.

Idem

(5) Where an election is made under subsection (4), the person may later withdraw some or all of his shares or loans from the co-operative by giving notice to the co-operative in the manner prescribed by subsection (1), and the co-operative shall, within six months of the receipt thereof,

- (a) purchase the shares at their par value or at a value that is less than par value and that is agreed to by the co-operative and such person;
- (b) pay to him the amounts held to his credit together with any interest accrued thereon; and
- (c) pay to him the amount outstanding on loans repayable on demand together with any interest accrued thereon,

that are referred to in the notice.

Extension of time for repayment

(6) Where, in the opinion of the directors of the co-operative, payments in accordance with subsection (3) or (5) would not be in the best interests of the co-operative, the directors may by resolution extend such payments over a period of not more than five years and pay in each year not less than 20 per cent of the amount to be repaid under subsection (3) or (5). 1973, c. 101, s. 64 (5, 6).

Dealing by co-operative with personal representatives

65.—(1) Where a person is shown on the records of a co-operative as holding a share as a personal representative, the receipt by such person is a valid and binding discharge to the co-operative for any payment or other distribution made in

respect of the share whether notice of any trust has been given to the co-operative or not, and the co-operative is not bound to see to the application of such payment or other distribution.

(2) Where shares are purchased by a co-operative under subsection 32 (1) or subsection 64 (3) or section 66 or accepted under subsection 33 (1) and are not thereby cancelled, no person is entitled to receive notice of or to vote at meetings of members or to receive any payment in respect of the shares whether by way of dividend or otherwise until such shares are resold. 1973, c. 101, s. 65. Co-operative not to vote, etc.

66.—(1) A member may be expelled from membership in a co-operative by resolution passed by a majority of the board of directors at a meeting duly called for the purpose not later than thirty days before the date set for the annual meeting of the co-operative. Expulsion of member

(2) A resolution under subsection (1) is not valid unless, Validity

- (a) prior written notice is given to the member setting forth the grounds upon which it is sought to expel him;
- (b) the notice is given the member ten days or more before the date of the meeting of the board of directors called to consider the resolution expelling that member; and
- (c) an opportunity is given the member to appear, either personally or by an agent or counsel, to make submissions at the meeting of the board of directors called to consider the resolution expelling that member.

(3) The secretary of the co-operative shall, within five days of the date of the meeting of the board of directors referred to in subsection (1), notify the member of the decision of the board by registered letter addressed to him at his latest known address. Notice of decision

(4) Where a resolution expelling a member is passed under subsections (1) and (2), the member may appeal the decision of the board of directors at the next annual or general meeting of members and the members by majority vote may confirm, vary or set aside the resolution. Appeal by member

(5) A member who wishes to appeal his expulsion to a meeting of members shall give notice of his intention to appeal within twenty-one days of receipt of the notice of expulsion mentioned in subsection (3), and the directors shall, if written representations are received seven or more days before the mailing of the notice of the meeting, at the expense of the co-operative, forward with the notice of the meeting a Idem

copy of such representations to each member entitled to receive notice of the meeting.

Effect of
expulsion

(6) Where a member has been expelled, the co-operative shall purchase from the member, within one year after his expulsion became final, at par value all his shares in the capital of the co-operative together with all amounts held to his credit together with any interest accrued thereon and the amount outstanding on loans, made to the co-operative by the member that are repayable on demand by the member together with interest accrued thereon.

Whereabouts
of member
unknown

(7) If the whereabouts of a member is unknown to the co-operative after all reasonable efforts have been made to ascertain his address for the purpose of making payment to him under subsection (6), amounts payable thereunder to him shall be transferred to a reserve fund of the co-operative; and any amounts so transferred shall, if claimed within thirty years after being so transferred by a person who produces evidence to the satisfaction of the directors of the co-operative that he is entitled thereto, be paid over to such person and, after the expiration of such thirty-year period, any amount so transferred shall be forfeited to the co-operative and transferred out of the reserve fund to it. 1973, c. 101, s. 66.

Where
repayment
not to be
made

67.—(1) A co-operative shall not exercise its powers under subsection 49 (3) or section 64 or 66,

- (a) if the co-operative is insolvent or if the exercise of its powers under that section would render the co-operative insolvent; or
- (b) if such exercise of its powers would in the opinion of the board of directors be detrimental to the financial stability of the co-operative. 1973, c. 101, s. 67 (1); 1978, c. 86, s. 16 (1).

Shares to be
cancelled or
resold

(2) Where the shares of a member are acquired under section 64 or 66,

- (a) if the articles so require, the shares shall be cancelled and thereupon the authorized and issued capital of the co-operative are thereby decreased, and the articles are amended accordingly;
- (b) if the articles do not require the shares to be cancelled,
 - (i) the board of directors may at the time of the purchase cancel the shares, in which case the authorized and issued capital of the co-

operative are thereby decreased and the articles are amended accordingly; or

- (ii) the board of directors may resell the shares at such time as it determines for a consideration equal to the product of the number of shares resold multiplied by the par value thereof. 1973, c. 101, s. 67 (2); 1978, c. 86, s. 16 (2).

Member's Rights

68.—(1) Subject to subsection (2), a member of a co-operative may maintain an action in a representative capacity for himself and all other members of the co-operative suing for and on behalf of the co-operative to enforce any right, duty or obligation owed to the co-operative under this Act or under any other statute or rule of law or equity that could be enforced by the co-operative itself, or to obtain damages for any breach of any such right, duty or obligation. Derivative action

(2) An action under subsection (1) shall not be commenced until the member has obtained an order of the court permitting the member to commence the action. Leave

(3) A member may, upon at least seven days notice to the co-operative, apply to the court for an order referred to in subsection (2), and, if the court is satisfied that, Application for order to commence action

- (a) the member was a member of the co-operative at the time of the transaction or other event giving rise to the cause of action;
- (b) the member has made reasonable efforts to cause the co-operative to commence or prosecute diligently the action on its own behalf; and
- (c) the member is acting in good faith and it is *prima facie* in the interests of the co-operative or its members that the action be commenced,

the court may make the order upon such terms as the court thinks fit, except that the order shall not require the member to give security for costs.

(4) At any time or from time to time while the action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the co-operative of reasonable interim costs including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the co-operative if the action is dismissed with costs on final disposition at the trial or on appeal. Application for order for interim costs

Trial and
judgment

(5) An action commenced under this section shall be tried by the court and its judgment or order in the cause, unless the action is dismissed with costs, may include a provision that the reasonable costs of the action are payable to the plaintiff by the co-operative or other defendants taxed as between a solicitor and his own client.

Discontin-
uance and
settlement

(6) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court and, if the court determines that the interests of the members may be substantially affected by such discontinuance, settlement or dismissal, the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the co-operative or any other party to the action as the court directs to the members thereof whose interests the court determines will be so affected. 1973, c. 101, s. 68.

Rights of
dissenting
members

69.—(1) If, at a meeting of members of a co-operative,

- (a) a resolution passed by the directors authorizing the sale, lease, exchange or other disposition of all or substantially all the property of the co-operative is confirmed with or without variation by the members;
- (b) a resolution approving an agreement for the amalgamation of the co-operative with one or more other co-operatives is passed by the members;
- (c) a resolution passed by the directors approving the conversion of the co-operative into a corporation to which the *Business Corporations Act* applies is confirmed with or without variation by the members;
- (d) a resolution passed by the directors approving the conversion of the co-operative into one with or without share capital is confirmed with or without variation by the members; or
- (e) a resolution passed by the directors under section 159 is confirmed with or without variation by the members,

any member who has voted against the confirmation of the resolution may within ten days after the date of the meeting give notice in writing to the co-operative requiring it to purchase his shares or refund the amount outstanding on loans made to the co-operative by the member together with any interest accrued thereon.

Co-operative
bound to
purchase
shares

(2) Within ninety days from,

- (a) the date of the completion of the sale, lease, exchange or other disposition;

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- (b) the date set forth in the certificate of amendment or amalgamation; or
- (c) the date of delivery to the Minister of a request in writing for his authorization under section 159,

the co-operative, or amalgamated co-operative, shall purchase the shares of, or refund the amount outstanding on loans made to the co-operative by, every member who has given notice under subsection (1), and every such member shall sell or deliver up his securities to the co-operative.

(3) The amount and terms of the purchase of a member's shares shall be at their par value or at a value that is less than par value and that is agreed to by the co-operative and the member together with all amounts held to his credit and with interest accrued thereon. ^{Purchase price}

(4) The amount and terms of the repayment of any loans made by the member to the co-operative shall be at the full amount outstanding together with any interest accrued thereon and unpaid. ^{Idem}

(5) The co-operative shall not purchase any shares or repay any member's loans under subsection (2) or (3) if it is insolvent or if the purchase or repayment would render it insolvent. ^{Saving}

(6) If the sale, lease, exchange or other disposition is not completed, the certificate of amendment or amalgamation is not issued, or the authorization of the Minister is not given, the rights of the dissenting member under this section cease and the co-operative shall not purchase the shares of the member nor refund the amount outstanding on loans made to the co-operative by the member under this section. ^{Idem}

(7) Nothing in this section shall be construed to require a co-operative to repay a member's term loan before the date of maturity. 1973, c. 101, s. 69. ^{Idem}

70.—(1) Ten per cent of the members of a co-operative may requisition the directors to call a meeting of the directors for the purpose of passing any by-law or resolution that may properly be passed at a meeting of the directors duly called, constituted and held for that purpose. ^{Requisition for by-law or resolution}

(2) The requisition shall set out the by-law or resolution, as the case may be, that is required to be passed at the meeting and shall be signed by the requisitionists and deposited at the head office of the co-operative, and may consist of several documents in like form, each signed by one or more requisitionists. ^{Form of requisition}

Meeting of
directors

(3) Upon deposit of the requisition, the directors shall forthwith call a meeting of the directors for the purpose of passing the by-law or resolution, as the case may be, set out in the requisition.

Meeting of
members

(4) Where the directors do not, within twenty-one days from the date of the deposit of the requisition,

(a) call and hold such a meeting and pass such a by-law or resolution; and

(b) call a general meeting of the members for the purpose of confirming the by-law or resolution if the resolution requires confirmation at a general meeting of the members before it is effective,

any of the requisitionists may call a general meeting of the members for the purpose of passing such a by-law or resolution, and the meeting shall be held within sixty days from the date of the deposit of the requisition.

Notice

(5) A meeting of the members called under subsection (4) shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Validity of
by-law or
resolution

(6) Where a by-law or resolution is passed at a meeting of the members called under subsection (4), either as set out in the requisition or as varied at the meeting, it is as valid and effective as if it had been passed at a meeting of the directors duly called, constituted and held for that purpose and confirmed at a meeting of the members duly called, constituted and held for that purpose, and if the resolution or by-law is passed by at least two-thirds of the votes cast at a meeting of the members called under subsection (4), it shall be conclusively deemed to be a special resolution or a by-law, as the case may be, for the purposes of this Act.

Repayment
of expenses

(7) The co-operative shall,

(a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the failure of the directors to act in accordance with subsections (3) and (4); and

(b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such

of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting called under subsection (4), the members, by a majority of the votes cast, reject the reimbursement of the requisitionists.

(8) Where a by-law or resolution in respect of which a meeting of directors is requisitioned under this section is not passed or confirmed at a meeting of the members, no requisition for a meeting of directors in respect of a similar by-law or resolution shall be made for a period of at least two years. 1973, c. 101, s. 70.

New
requisition
on same
subject

71.—(1) On the requisition in writing of 5 per cent of the members of the co-operative, the directors shall,

Circulation
of members'
resolutions,
etc.

(a) give to the members entitled to notice of the next meeting of members notice of any resolution that may properly be moved and is intended to be moved at that meeting; or

(b) circulate to the members entitled to vote at the next meeting of members a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each member entitled thereto in the same manner and at the same time as that prescribed by this Act, the articles or the by-laws, for the sending of notice of meetings of members.

Notice

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

Idem

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,

Deposit of
requisition,
etc.

(a) the requisition, signed by the requisitionists, is deposited at the head office of the co-operative,

(i) in the case of a requisition requiring notice of a resolution to be given, not less than twenty-one days before the meeting,

(ii) in the case of a requisition requiring a statement to be circulated, not less than fourteen days before the meeting; and

- (b) there is deposited with the requisition a sum reasonably sufficient to meet the expenses of the co-operative in giving effect thereto.

Where directors not bound to circulate statement

(5) The directors are not bound under this section to circulate any statement if, on the application of the co-operative or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and on any such application the court may order the costs of the co-operative to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application.

Where no liability

(6) No co-operative or a director, officer or employee thereof or person acting on its behalf, except a requisitionist, is liable in damages or otherwise by reason only of the giving of a notice or the circulation of a statement, or both, in compliance with this section.

Duty to deal with requisitioned matter

(7) Notwithstanding anything in the by-laws of the co-operative, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates.

Repayment of expenses

(8) The co-operative shall pay to the requisitionists the sum deposited under clause (4) (b) unless at the meeting to which the requisition relates the members by a majority of the votes cast reject the repayment to the requisitionists. 1973, c. 101, s. 71.

Liabilities of Members

Liability on decrease of issued capital

72.—(1) Where the issued loan or share capital of a co-operative is decreased by an amendment to the articles, each person who was a member on the effective date of the amendment is individually liable to the creditors of the co-operative for the debts due on that date to an amount not exceeding the amount of the repayment to him.

Limitation of liability

(2) A person is not liable under subsection (1) unless,

- (a) the co-operative has been sued for the debt within six months after the effective date of the amendment and execution has been returned unsatisfied in whole or in part; and
- (b) he is sued for the debt in a court of competent jurisdiction within two years from the effective date of the amendment.

(3) After execution has been so returned, the amount due ^{Idem} on the execution, not exceeding the amount of the repayment to the person, is the amount recoverable against such person.

(4) Where it is made to appear that there are numerous ^{Class actions} members who may be liable under this section, the court of competent jurisdiction may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sum so determined.

(5) No person holding shares or loans in the capacity of a ^{Member in fiduciary capacity} personal representative and registered on the records of the co-operative as a member and therein described as representing in such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section. 1973, c. 101, s. 72.

73. A member of a co-operative as such is not answerable ^{Member's liability limited} or responsible for any act, default, obligation or liability of the co-operative or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the co-operative. 1973, c. 101, s. 73.

Meetings of Members

74.—(1) Subject to subsections (2) and (3), the meetings of the ^{Place of meetings} members shall be held at the place where the head office of the co-operative is located.

(2) Where the by-laws of the co-operative so provide, the ^{Exception} meetings of the members may be held at any place within Ontario.

(3) Where the articles of the co-operative so provide, the ^{Idem} meetings of the members may be held at one or more places outside Ontario specified therein. 1973, c. 101, s. 74.

75.—(1) Subject to subsection (2) and in the absence of other ^{Members' meetings} provisions in that behalf in the articles or by-laws of the co-operative,

- (a) notice of the time and place for holding a meeting of the members shall be given to each person who is entitled to notice of meetings and who on the record date for notice appears on the records of the co-

operative as a member by sending the notice by pre-paid mail to his latest address as shown on the records of the co-operative ten days or more before the date of the meeting but in no case more than fifty days before the date of the meeting;

- (b) all questions proposed for the consideration of the members at a meeting of members shall be determined by the majority of the votes cast, and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (c) the chairman presiding at a meeting of members may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (d) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of members, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the members present shall choose a person from their number to be the chairman;
- (e) unless a poll is demanded, an entry in the minutes of a meeting of members to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

Notice

(2) The articles or by-laws of the co-operative shall not provide for fewer than ten days notice for meetings of members and in no case shall notice be given fifty days before the date of the meeting and the articles or by-laws shall not provide that notice may be given otherwise than individually.

Poll

(3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman directs. 1973, c. 101, s. 75.

Voting

76.—(1) A member of a co-operative has only one vote.

Proxies prohibited

(2) Subject to subsection (3), no member of a co-operative shall vote by proxy.

Voting by corporation

(3) A corporate member may appoint under its corporate seal one of its directors or officers to attend and vote on its

behalf at meetings of members and such director or officer has only one vote. 1973, c. 101, s. 76.

77. A co-operative shall hold an annual meeting of its members not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting and at such meeting any member shall have an opportunity to raise any matter relevant to the affairs and business of the co-operative. 1973, c. 101, s. 77. Annual meetings

78. The directors may at any time call a general meeting of the members for the transaction of any business, the general nature of which is specified in the notice calling the meeting. 1973, c. 101, s. 78. General meetings

79.—(1) Five per cent of the members of a co-operative may requisition the directors to call a general meeting of the members for any purpose that is connected with the affairs of the co-operative and that is not inconsistent with this Act. Requisition for members' meeting

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the co-operative and may consist of several documents in like form, each signed by one or more requisitionists. Requisition

(3) Upon deposit of the requisition, the directors shall forthwith call a general meeting of the members for the transaction of the business stated in the requisition. Duty of directors to call meeting

(4) If the directors do not within thirty days from the date of the deposit of the requisition call and hold the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition. When requisitionists may call meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting. Calling of meeting

(6) The co-operative shall, Repayment of expenses

(a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection (4); and

(b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services,

to such of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting, the members by a majority of the votes cast reject the reimbursement of the requisitionists. 1973, c. 101, s. 79.

Requisition
by court
order

80. Notwithstanding section 79, upon application by a member of a co-operative, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the co-operative or its members that the meeting be held on requisition, may make an order, upon such terms as to security for the costs of holding the meeting or otherwise as to the court seem fit, requiring the directors to call a general meeting of the members for any purpose that is connected with the affairs of the co-operative and that is not inconsistent with this Act. 1973, c. 101, s. 80.

Court may
direct
method of
holding
meetings

81. If for any reason it is impracticable to call a meeting of members of a co-operative in any manner in which meetings of members may be called or to conduct the meeting in the manner prescribed by this Act, the articles or by-laws, the court may, on the application of a director or a member who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with the order shall for all purposes be deemed to be a meeting of members of the co-operative duly called, held and conducted. 1973, c. 101, s. 81.

Record
dates

82. The by-laws may provide for the fixing in advance of a date as the record date,

- (a) for the determination of the members entitled to notice of meetings of the members, which record date for notice shall not be more than fifty days before the date of the meeting and not fewer than the minimum number of days for notice of the meeting and where no such record date for notice is fixed, the record date for notice shall be at the close of business on the day next preceding the day on which notice is given or sent; and
- (b) for the determination of the members entitled to vote at meetings of the members which record date for voting shall not be more than two days, excluding Saturdays and holidays, before the date of the meeting and where no such record date for voting is fixed, the record date for voting shall be the time of the taking of the vote. 1973, c. 101, s. 82.

83. Where a person holds shares or a member loan as a personal representative of a member, the personal representative is entitled to vote at all meetings of members. 1978, c. 86, s. 17. Personal representative may vote

84. Where two or more persons hold the same share or shares jointly, any one of such persons present at a meeting of members has the right in the absence of the other or others to vote, but, if more than one of such persons are present and vote, they shall vote together as one on the share or shares jointly held by them. 1973, c. 101, s. 84. Joint shareholders

DIRECTORS AND OFFICERS

Directors

85.—(1) Every co-operative shall have a board of directors however designated. Board of directors

(2) The board of directors shall consist of a fixed number of directors, not fewer than five. Composition

(3) A majority of directors on the board of directors of every co-operative shall be resident Canadians. 1973, c. 101, s. 85. Idem

86.—(1) Each of the persons named as first directors in the articles of a co-operative is a director of the co-operative until replaced by a person duly elected or appointed in his stead. First directors

(2) The first directors of a co-operative have all the powers and duties and are subject to all the liabilities of directors. 1973, c. 101, s. 86. Idem

87. No person shall be a director of a co-operative unless he is a member thereof or a director, officer, shareholder or member of a corporate member thereof, and, where a director or a corporation of which he is an officer, director, shareholder or member ceases to be a member, he thereupon ceases to be a director. 1973, c. 101, s. 87. Directors to be members

88.—(1) A co-operative may by by-law increase or, subject to subsection 85 (2), decrease the number of its directors as set out in its articles. Change in number of directors

Filing of
by-law

(2) A co-operative shall file with the Minister a certified copy of the by-law within ten days after the by-law has been confirmed by the members.

Validity

(3) Failure to comply with subsection (2) does not affect the validity of the by-law. 1973, c. 101, s. 88.

Age of
directors

89.—(1) No person under eighteen years of age shall be a director of a co-operative.

Qualifications

(2) No undischarged bankrupt or mentally incompetent person shall be a director, and, if a director becomes a bankrupt or a mentally incompetent person, he thereupon ceases to be a director.

Consent

(3) A person who is elected or appointed a director is not a director unless,

(a) he was present at the meeting when he was elected or appointed and did not refuse at the meeting to act as director;

(b) where he was not present at the meeting when he was elected or appointed, he consented to act as director in writing before his election or appointment or within ten days thereafter.

Idem

(4) For the purposes of subsection (3), a person who is elected or appointed as director and refuses under clause (3) (a) or fails to consent under clause (3) (b) shall be deemed not to have been elected or appointed as a director. 1973, c. 101, s. 89.

Election of
directors

90.—(1) The directors shall be elected by the members in general meeting, and the election shall be by ballot in the manner prescribed by section 91.

Idem

(2) The election of directors shall take place yearly or at such other interval not exceeding five years as is provided by the articles and all the directors then in office shall retire, but are eligible for re-election.

Continuance
in office

(3) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected.

(4) The articles or by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least two directors shall retire from office in each year. Rotation

(5) It shall not be necessary for all directors to hold office for the same term. 1973, c. 101, s. 90. Idem

91. Every member entitled to vote at an election of directors, if he votes, shall cast thereat a number of votes equal to the number of directors to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member. 1973, c. 101, s. 91. Voting for directors

92.—(1) Subject to subsection (2), where a vacancy occurs in the board, and a quorum of directors remains, the directors remaining in office may appoint a qualified person to fill the vacancy for the remainder of the term, but the articles may provide that such vacancy may only be filled by election at a general meeting of the members duly called for that purpose. Vacancies

(2) Where the number of directors is increased, the vacancies resulting from such increase shall only be filled by election at a general meeting of the members duly called for that purpose. Idem

(3) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member. 1973, c. 101, s. 92. Idem, where no quorum

93. Unless the articles or by-laws otherwise provide, a majority of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors. 1973, c. 101, s. 93. Quorum of directors

94.—(1) Subject to subsection (2), the meetings of the board of directors and the executive committee shall be held at the place where the head office of the co-operative is located. Place of meetings

(2) Where the by-laws of the co-operative so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario, but in any financial year of the co-operative a majority of the meetings of the board of directors and a majority of the meetings of the executive committee shall be held at a place within Canada. Exception

(3) Subject to the by-laws of the co-operative, where all the directors have consented thereto, any director may par- Meetings by telephone

ticipate in a meeting of the board of directors or of the executive committee by means of conference, telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a director participating in a meeting pursuant to this subsection shall be deemed for the purposes of this Act to be present in person at that meeting.

**Place of
meetings by
telephone**

(4) If a majority of the directors participating in a meeting held pursuant to subsection (3) are then in Canada, the meeting shall be deemed to have been held in Canada. 1973, c. 101, s. 94.

**Calling
meetings of
directors**

95.—(1) In addition to any other provision in the articles or by-laws of a co-operative for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(2) In the absence of any other provision in that behalf in the by-laws of the co-operative, notice of the time and place for the holding of the meeting called under subsection (1) shall be given to every director of the co-operative by sending the notice by prepaid mail ten days or more before the date of the meeting to his latest address as shown on the records of the co-operative. 1973, c. 101, s. 95.

Duties

96.—(1) The board of directors shall manage or supervise the management of the affairs and business of the co-operative.

**Conduct of
business**

(2) Subject to section 97, no business of a co-operative shall be transacted by its board of directors except at a meeting of directors at which a quorum of the board is present and at which a majority of the directors present are resident Canadians.

Idem

(3) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. 1973, c. 101, s. 96.

**Executive
committee**

97.—(1) Where the number of directors of a co-operative is more than six, and if authorized by a by-law, the directors may elect from among their number an executive committee consisting of not fewer than three of whom a majority shall be resident Canadians and may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

Quorum

(2) An executive committee may fix its quorum, which shall be not less than a majority of its members.

(3) No business shall be transacted by an executive committee except at a meeting of its members at which a quorum of the executive committee is present and at which a majority of the members present are resident Canadians. 1973, c. 101, s. 97.

Conduct of
business

98.—(1) Every director of a co-operative who has, directly or indirectly, any interest in any contract or transaction to which the co-operative or a subsidiary thereof is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the co-operative and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the co-operative or a subsidiary thereof, the cost of the property to the purchaser and the cost thereof to the seller, if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum.

Disclosure by
directors of
interests in
contracts

(2) Subsection (1) does not require the disclosure of any interest in any contract or transaction unless,

Interest
to be
material

(a) the interest and the contract or transaction are both material; or

(b) the subject of the contract or transaction is of a type not available to all members of the co-operative.

(3) The declaration required by this section shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the co-operative's business, would not require approval by the directors or shareholders, at the first meeting of the directors held after the director becomes aware of it.

When
declaration
of interest
to be made

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the co-operative, the director, if he was acting honestly and in good

Effect of
declaration

faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the co-operative or to its members for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interests of the co-operative at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

Confirmation
by members

(5) Notwithstanding anything in this section, a director, if he was acting honestly and in good faith, is not accountable to the co-operative or to its members for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director, and the contract or transaction, if it was in the best interests of the co-operative at the time it was entered into, is not by reason only of the director's interest therein voidable,

(a) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the members duly called for that purpose; and

(b) if the nature and extent of the director's interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting.

General
notice of
interest

(6) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of or has a material interest in a person that is a party to a contract or proposed contract with the co-operative is a sufficient declaration of interest in relation to any contract so made. 1973, c. 101, s. 98.

Liability of
directors re
purchase of
shares

99.—(1) Where a co-operative acquires any of its shares or repays any of its loans in contravention of this Act or the articles, the directors who voted in favour of or consented to the resolution authorizing the acquisition or repayment are jointly and severally liable to the co-operative to the extent of the amount paid out.

Application
to court

(2) Where a co-operative acquires any of its shares or repays any of its loans in contravention of this Act or the articles,

(a) any member of the co-operative; or

(b) where the acquisition or repayment is in contravention of subsection 32 (2), subsection 67 (1) or section 69; any

creditor of the co-operative who was a creditor at the time of the acquisition or repayment,

may apply to the court within two years of the acquisition or repayment and the court may, if it considers it to be just and equitable under the circumstances, make an order making any member whose shares were acquired liable to the co-operative jointly and severally with the directors, to the extent of the amount paid to him. 1973, c. 101, s. 99.

100. Where any dividend is declared and paid in contravention of section 58, Liability
of directors
re dividends

(a) the directors who voted in favour of or consented to the resolution authorizing the declaration of the dividend are jointly and severally liable to the co-operative to the extent of the amount of the dividend so declared and paid or such part thereof as renders the co-operative insolvent or diminishes its capital; and

(b) any member of the co-operative or any creditor of the co-operative who was a creditor at the time of the declaration of the dividend may apply to the court within two years of the declaration, and the court may, if it considers it to be just and equitable under the circumstances, make an order making any member to whom the dividend is paid jointly and severally liable with the directors to the extent of the amount of the dividend paid to him. 1973, c. 101, s. 100.

101.—(1) A director who was present at a meeting of the board of directors or an executive committee thereof when, Consent of
director at
meeting

(a) the redemption or purchase of shares of the co-operative is authorized;

(b) the declaration and payment of a dividend is authorized; or

(c) the repayment of loans to members is authorized,

shall be deemed to have consented thereto unless,

(d) his dissent is entered in the minutes of the meeting;

(e) he files his written dissent with the person acting as secretary of the meeting before its adjournment; or

- (f) he delivers or sends his dissent by registered mail to the co-operative immediately after the adjournment of the meeting,

and within seven days after complying with clause (d), (e) or (f) he sends a copy of his dissent by registered mail to the Minister.

Idem

(2) A director who voted in favour of a matter referred to in subsection (1) is not entitled to dissent under subsection (1).

Consent of
director
not at
meeting

(3) A director who was not present at a meeting of the board of directors or any executive committee thereof when,

- (a) the redemption or purchase of shares of the co-operative is authorized;
- (b) the declaration and payment of a dividend is authorized; or
- (c) the repayment of loans to members is authorized,

shall be deemed to have consented thereto unless,

- (d) he delivers or sends to the co-operative by registered mail his dissent; or
- (e) he causes his dissent to be filed with the minutes of the meeting,

within seven days after he becomes aware of the authorization referred to in clause (a), (b) or (c) and unless, within seven days after complying with clause (d) or (e), he sends a copy of his dissent by registered mail to the Minister. 1973, c. 101, s. 101.

Exception to
liability

102.—(1) A director is not liable under section 99 or 100 if, in the circumstances, he discharged his duty to the co-operative in accordance with section 108.

Liability not
excluded

(2) The liability imposed by this Act upon a director is in addition to any other liability that is by law imposed upon him. 1973, c. 101, s. 102.

Liability of
directors for
wages
R.S.O. 1980,
cc. 257, 137

103.—(1) The directors of a co-operative are jointly and severally liable to the employees of the co-operative to whom the *Master and Servant Act* applies for all debts that become due while they are directors for services performed for the co-operative, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under the *Employment Standards Act* and the regulations thereunder or under any collective agreement made by the co-operative.

(2) A director is liable under subsection (1),

Limitation of
liability

(a) only if,

(i) the co-operative has been sued for the debt within six months after it has become due and execution against the co-operative has been returned unsatisfied in whole or in part, or

(ii) the co-operative has within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and, in any such case, the claim for the debt has been proved; and

R.S.C. 1970,
c. B-3

(b) he is sued for the debt while he is a director or within two years after he ceases to be a director.

(3) After execution has been so returned against the co-operative, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

(4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment. 1973, c. 101, s. 103.

Rights of
director
who pays
the debt

104. The members may, by resolution passed by a majority of the votes cast at a general meeting duly called for that purpose, remove any director before the expiration of his term of office and may, by a majority of the votes cast at the meeting, elect any qualified person in his stead for the remainder of his term. 1978, c. 86, s. 18.

Removal of
directors

Officers

105.—(1) A co-operative shall have a president and a secretary and such other officers as are provided for by by-law or by resolution of the directors.

Officers

(2) In the absence of other provisions in that behalf in the articles or by-laws, the directors,

Election and
appointment

(a) shall elect the president from among themselves;

- (b) shall appoint or elect the secretary; and
- (c) may appoint or elect one or more vice-presidents or other officers. 1973, c. 101, s. 105.

Chairman
of the board

106. A co-operative may by by-law,

- (a) provide for the election or appointment by the directors from among themselves of a chairman of the board;
- (b) define the duties of the chairman;
- (c) assign to the chairman all or any of the duties of the president or of any other officer of the co-operative,

and, if the by-law assigns to the chairman any of the duties of the president, it shall also fix and prescribe the duties of the president. 1973, c. 101, s. 106.

Qualifica-
tions of
chairman
and president

107. Unless the articles or by-laws otherwise provide, no person shall be the president of a co-operative unless he is a director of the co-operative, but no other officer except the chairman of the board need be a director. 1973, c. 101, s. 107.

General

Standard of
care of
directors and
officers

108. Every director and officer of a co-operative shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the co-operative, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 1973, c. 101, s. 108.

Validity of
acts of
directors and
officers

109. An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. 1973, c. 101, s. 109.

Indemnifica-
tion of
directors and
officers

110.—(1) Subject to subsection (2), the by-laws of a co-operative may provide that every director and officer of the co-operative and his heirs, executors, administrators and other legal personal representatives may from time to time be indemnified and saved harmless by the co-operative from and against,

- (a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him for or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

- (b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the co-operative.

(2) No director or officer of a co-operative shall be indemnified by the co-operative in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action, suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him under this Act or under any other statute unless, in an action brought against him in his capacity as director or officer, he has achieved complete or substantial success as a defendant.

(3) A co-operative may purchase and maintain insurance for the benefit of a director or officer thereof, except insurance against a liability, cost, charge or expense of the director or officer incurred as a result of a contravention of section 108. 1973, c. 101, s. 110.

INSIDERS

111.—(1) Every insider of a co-operative or associate or affiliate of such insider who, in connection with a transaction relating to the securities of the co-operative, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person for any direct loss suffered by such person as a result of the transaction, unless the information was known or ought reasonably to have been known to such person at the time of the transaction, and is also accountable to the co-operative for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of the transaction.

(2) An action to enforce any right created by subsection (1) may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action.

(3) In this section,

(a) "associate", where used to indicate a relationship with any person, means,

- (i) any corporation of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding,

- (ii) any partner of that person acting by or for the partnership of which they are both partners,
 - (iii) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity,
 - (iv) any spouse, son or daughter of that person, or
 - (v) any relative of such person or of his spouse, other than a relative referred to in subclause (iv), who has the same home as such person;
- (b) "insider" or "insider of a co-operative" means any director or senior officer of a co-operative.

Idem

(4) For the purposes of this section, one corporation shall be deemed to be affiliated with another corporation if, but only if, one of them is the subsidiary of the other. 1973, c. 101, s. 111.

Order to
commence
action

112.—(1) Upon application by any person who was at the time of a transaction referred to in subsection 111 (1) or is at the time of the application an owner of securities of the co-operative, the court may, if satisfied that, —

- (a) such person has reasonable grounds for believing that the co-operative has a cause of action under section 111; and
- (b) either,
 - (i) the co-operative has refused or failed to commence an action under section 111 within sixty days after receipt of a written request from such person so to do, or
 - (ii) the co-operative has failed to prosecute diligently an action commenced by it under section 111,

make an order, upon such terms as to security for costs and otherwise as to the court seems fit, requiring the Minister to commence or continue an action in the name of and on behalf of the co-operative to enforce the liability created by section 111.

(2) The applicant under subsection (1) shall give to the co-operative and the Minister notice of his application, and the co-operative and the Minister have the right to appear and be heard thereon. Notice

(3) Every order made under subsection (1) shall provide that the co-operative shall co-operate fully with the Minister in the institution and prosecution of the action and shall make available to the Minister all records, documents and other material or information known to the co-operative or reasonably ascertainable by the co-operative relevant to the action. Order to co-operate
1973, c. 101, s. 112.

RECORDS

113.—(1) Where this Act requires a record to be kept by a co-operative, it may be kept in a bound or looseleaf book, or by means of a mechanical, electronic or other device. Records

(2) Where a record is not kept in a bound book, the co-operative shall, Where not in bound book

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and
- (b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the record.

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the co-operative, of all facts stated therein. Admissibility of records in evidence

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or, False information

- (a) record or assist in recording any information in a record; or
- (b) make information purporting to be accurate available in a form referred to in clause (2) (b),

knowing it to be untrue. 1973, c. 101, s. 113.

114. A co-operative shall cause to be kept the following records: Records

1. A copy of the articles of the co-operative.

2. All by-laws and resolutions, including special resolutions, of the co-operative.
3. A register of members and security holders in which is set out the names alphabetically arranged or alphabetically indexed in appropriate categories of,
 - i. in a co-operative with share capital, all persons who are or have been within ten years registered as holders of shares in the co-operative and the address including the street and number, if any, of every such person while a holder, in which are set out also the number and class of shares held by such holder,
 - ii. in a co-operative without share capital, all persons who are or have been within ten years registered as members of the co-operative and the address including the street and number, if any, of every such person while a member,
 - iii. in a co-operative with or without share capital, all persons who are or who have been holders of debt obligations other than debt obligations in bearer form of the co-operative and the address including the street and number, if any, of every such person while a holder in which are set out also the class or series and principal amount of the debt obligations held by such holder.
4. A register of directors in which are set out the names and residence addresses while directors, including the street and number, if any, of all persons who are or have been directors of the co-operative with the several dates on which they have become or ceased to be a director.
5. Proper accounting records in which are set out all financial and other transactions of the co-operative including, without limiting the generality of the foregoing, records of,
 - i. all sums of money received and disbursed by the co-operative and the matters with respect to which receipt and disbursement took place,
 - ii. all sales and purchases of the co-operative,
 - iii. the assets and liabilities of the co-operative, and

iv. all other transactions affecting the financial position of the co-operative.

6. The minutes of all proceedings at meetings of members, directors and any executive committee. 1973, c. 101, s. 114.

115. Every co-operative shall cause to be kept a register of transfers in which all transfers of securities issued by the co-operative in registered form and the date and other particulars of each transfer shall be set out. 1973, c. 101, s. 115. Register of transfers

116. A co-operative may appoint a registrar and a transfer agent to keep the register of security holders and the register of transfers. 1973, c. 101, s. 116. Transfer agent

117.—(1) The register of security holders and the register of transfers shall be kept at the head office of the co-operative or at such other office or place in Ontario as is appointed by resolution of the directors. Where registers to be kept

(2) Registration of the transfer of a security of the co-operative in the register of transfers is a complete and valid registration for all purposes. Valid registration

(3) A co-operative, registrar or transfer agent is not liable to produce a security certificate or any document that is evidence of the issue or transfer of the security certificate after six years, Destruction of spent documents

(a) in the case of a share certificate, from the date of its cancellation; or

(b) in the case of a certificate representing a debt obligation, from the date of retirement of the whole debt obligation of which the certificate represents a part. 1973, c. 101, s. 117.

118.—(1) The records mentioned in sections 114 and 115 shall, during the normal business hours of the co-operative, be open to examination by any director and shall, except as provided in section 117 and in subsections (2) and (3) of this section, be kept at the head office of the co-operative. Records open to examination by directors

(2) A co-operative may keep at any place where it conducts its affairs such parts of the accounting records as relate to the operations, business and assets and liabilities of the co-operative carried on, supervised or accounted for at such place, but there shall be kept at the head office of the co-operative or such other place as is authorized under subsection (3) such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the co-operative. Records of account at branch

Order for
removal of
records

(3) Where a co-operative,

- (a) shows, to the satisfaction of the Minister, the necessity of keeping all or any of the records mentioned in subsection (1) at a place other than the head office of the co-operative; and
- (b) gives to the Minister adequate assurance, by surety bond or otherwise, that such records will be open for examination,
 - (i) at the head office or some other place in Ontario designated by the Minister, and
 - (ii) by any person who is entitled to examine them and who has applied to the Minister for such an examination,

the Minister may, by order and upon such terms as he thinks fit, permit the co-operative to keep such of them at such place or places, other than the head office, as he thinks fit and the Minister may by order and upon such terms as he sees fit rescind any such order. 1973, c. 101, s. 118.

Examination
of records
by members
and creditors

119.—(1) Subject to section 120, the records of a co-operative mentioned in section 114 or 115, other than accounting records, resolutions of directors and the minutes of proceedings at meetings of directors and any executive committee, shall, during the normal business hours of the co-operative and at the place or places where they are kept, be open to examination by the members and creditors or their agents or personal representatives, and any of them may make extracts therefrom.

Idem

(2) No person shall refuse to permit a person entitled thereto to inspect such records or to make extracts therefrom. 1973, c. 101, s. 119.

Lists of
members
and security
holders

120.—(1) Any member or creditor, upon filing with the co-operative or its agent the affidavit referred to in subsection (2) may,

- (a) make or cause to be made; or
- (b) require a co-operative or its transfer agent to make, upon payment of a reasonable charge therefor,

a list setting out the names alphabetically arranged of all or any members or security holders or both of the co-operative and the addresses of each such person as shown on the records of the co-operative made up to a date not more than ten days before the date of filing the affidavit.

(2) The affidavit referred to in subsection (1) shall be made by the applicant and shall be in the following form: ^{Form of affidavit}

Form of Affidavit

Province of Ontario }
County of }

In the matter of
(Insert name of co-operative)

I, of the of
in the of
make oath and say:

(Where the applicant is a corporation, indicate office and authority of deponent.)

1. I am a member or a creditor of the above-named co-operative.
2. I require the list (or require to make a list) of the members (security holders) of the above-named co-operative.
3. I require the list of members (security holders) only for purposes connected with the above-named co-operative.
4. The list of members (security holders) and the information contained therein will be used only for purposes connected with the above-named co-operative.

Sworn, etc.

(3) Where the applicant is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of the corporation. ^{Idem, where applicant a corporation}

(4) No person shall use a list of all or any of the members of a co-operative obtained under this section, ^{Use of list}

(a) for the purpose of delivering or sending to all or any of the members advertising or other printed matter relating to securities other than the securities of the co-operative; or

(b) for any purpose not connected with the co-operative.

(5) Every co-operative or transfer agent shall furnish a list in accordance with subsection (1) when so required. ^{Duty to furnish}

Purposes
of list

(6) Purposes connected with the co-operative include any effort to influence the voting of members or security holders at any meeting thereof. 1973, c. 101, s. 120.

Trafficking
in lists

121. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the members of a co-operative. 1973, c. 101, s. 121.

Power of
court to
correct

122.—(1) Where the name of a person is, without sufficient cause, entered in or omitted from the records of a co-operative other than accounting records, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a security holder or member of the co-operative, the person aggrieved, or any security holder or member of the co-operative, or the co-operative itself, may apply to the court for an order that the records be rectified, and the court may dismiss such application or make an order for the rectification of the records and may direct the co-operative to compensate the party aggrieved for any damage he has sustained.

Decision
as to title

(2) Any court may, in any proceeding under this section, decide any question relating to the entitlement of a person who is a party to the proceeding to have his name entered in or omitted from such records whether the question arises between two or more security holders or members or alleged security holders or members, or between any security holders or members or alleged security holders or members and the co-operative.

Trial of
issue

(3) The court may direct an issue to be tried.

Jurisdiction
of court not
affected

(4) This section does not deprive any court of any jurisdiction it otherwise has. 1973, c. 101, s. 122.

AUDITORS AND FINANCIAL STATEMENTS

Exemption
from audit
provisions

123.—(1) Where in a financial year all the members in a co-operative that,

- (a) has fifteen or fewer members;
- (b) has capital not exceeding \$15,000 as shown on the financial statement of the co-operative for the preceding year; and
- (c) has assets not exceeding \$50,000 and sales or gross operating revenues not exceeding \$100,000, as shown on the financial statement of the co-operative for the preceding year,

consent in writing, the co-operative is exempt from sections 124 and 125, subsections 126 (1) and (2), section 127 and clause 128 (1) (b) and subsection 128 (3) in respect of the financial year in which the consent is given. 1973, c. 101, s. 123 (1).

(2) A co-operative that has never issued securities and that at the end of a financial year has less than \$5,000 in capital and less than \$5,000 in assets is exempt in respect of that year from sections 124 and 125, subsections 126 (1) and (2), section 127 and clause 128 (1) (b) and subsection 128 (3). 1978, c. 86, s. 19.

(3) For the purposes of this section, capital shall be computed by adding together the sums represented by the amounts of, ^{Interpretation of capital}

- (a) member and patronage loans made to the co-operative that are outstanding;
- (b) issued capital determined in accordance with section 29;
- (c) unsecured long-term debt; and
- (d) surplus,

as shown on the financial statement of the co-operative for the preceding year. 1973, c. 101, s. 123 (2).

124.—(1) The members of a co-operative at their first general meeting shall appoint one or more auditors to hold office until the close of the first annual meeting and, if the members fail to do so, the directors shall forthwith make such appointment or appointments. ^{Auditors}

(2) The members shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed. ^{Idem}

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act. ^{Casual vacancy}

(4) The members may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term. ^{Removal of auditor}

(5) Before calling a general meeting for the purpose specified in subsection (4), the co-operative shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor, ^{Notice to auditor}

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to members in connection with the meeting.

Right of
auditor to
make repre-
sentations

(6) An auditor has the right to make to the co-operative, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,

- (a) his proposed removal as auditor;
- (b) the appointment or election of another person to fill the office of auditor; or
- (c) his resignation as auditor,

and the co-operative, at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting.

Remuner-
ation

(7) The remuneration of an auditor appointed by the members shall be fixed by the members, or by the directors if they are authorized so to do by the members, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appointment
by court

(8) If for any reason no auditor is appointed, the court may, on the application of a member, appoint one or more auditors to hold office until the close of the next annual meeting and may fix the remuneration to be paid by the co-operative for his or their services.

Notice of
appointment

(9) The co-operative shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. 1973, c. 101, s. 124.

Notice to
auditor of
proposal to
appoint
another

125.—(1) If, at an annual meeting of members, it is proposed to appoint an auditor, other than the incumbent auditor, the co-operative shall, fifteen days or more before the mailing of the notice of meeting, give to the incumbent auditor a written notice of management's intention not to recommend his re-appointment at the annual meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed.

Right of
incumbent
auditor to
make repre-
sentations

(2) The incumbent auditor has the right to make to the co-operative, three days or more before the mailing of the notice of the meeting, representations in writing concerning the proposal not to reappoint him as auditor, and the co-operative,

at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting. 1973, c. 101, s. 125.

126.—(1) No person shall be appointed or act as auditor of a co-operative who is a director, officer or employee, or who has been, during the two years immediately preceding the proposed date of his appointment as auditor, a director, officer or employee of the co-operative or who is a partner, employer or employee of such director, officer or employee or who is a related person to any director or officer of the co-operative. Persons disqualified as auditors

(2) No person shall be appointed to act as auditor of a co-operative if he or any partner or employer of or related person to him transacts a material amount of business with the co-operative. Idem

(3) No person shall be appointed a receiver or a receiver and manager or liquidator of any co-operative of which he or any partner or employer of or a related person to him is the auditor or has been auditor within the two years preceding his appointment as receiver or receiver and manager or liquidator. Auditors not to be appointed receivers, etc.

(4) No person who is appointed a trustee of the estate of a co-operative under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the co-operative. 1973, c. 101, s. 126. Trustee in bankruptcy not to be auditor
R.S.C. 1970, c. B-3

127.—(1) The auditor shall make such examination as will enable him to report to the members as required by subsection (2). Annual audit

(2) The auditor shall make a report to the members on the financial statement, other than the part thereof that relates to the period referred to in subclause 128 (1) (a) (ii), to be laid before the co-operative at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the co-operative and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. Auditor's report

(3) Where the report under subsection (2) does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor. Idem

(4) Where facts come to the attention of the officers or directors, Facts discovered after statement

- (a) which could reasonably have been determined prior to the date of the last annual meeting of the members; and
- (b) which, if known prior to the date of the last annual meeting of members, would have required a material adjustment to the financial statement presented to the meeting,

the officers or directors shall communicate such facts to the auditor who reported to the members under this section and the directors shall forthwith amend the financial statement and send it to the auditor.

Amendment
of auditor's
report

(5) On the receipt of facts furnished under subsection (4) or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection (3) and the directors or, if they fail to do so within a reasonable time, the auditor shall mail such amended report to the members.

Idem

(6) If the financial statement contains a statement of changes in net assets or a statement of source and application of funds, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of changes in net assets or the statement of source and application of funds presents fairly the information shown therein.

Idem

(7) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a co-operative are included in the financial statement of the co-operative, the report of the auditor of the co-operative required by subsection (2) may refer to the reports of auditors of one or more of such subsidiaries, but such reference shall not derogate from the duty of the auditor of the co-operative to comply with subsection (2).

Idem

(8) The auditor in his report shall make such statements as he considers necessary,

- (a) if the co-operative's financial statement is not in agreement with its accounting records;
- (b) if the co-operative's financial statement is not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

(9) The auditor of a co-operative has right of access^{Right of access, etc.} at all times to all records, documents, accounts and vouchers of the co-operative and is entitled to require from the directors, officers and employees of the co-operative such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2).

(10) The auditor of a co-operative has right of access^{Idem} at all times to all records, documents, accounts and vouchers of all subsidiaries of the co-operative and is entitled to require from the directors, officers and employees of each such subsidiary such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2).

(11) Where a subsidiary referred to in subsection (10) is a^{Idem} corporation to which this Act does not apply, the co-operative shall make available to its auditor the records, documents, accounts and vouchers of that subsidiary and shall require the directors, officers and employees of that subsidiary to make available to its auditor the information and explanation required by subsection (10).

(12) The auditor of a co-operative is entitled to attend any^{Auditor may attend members' meetings} meeting of members of the co-operative and to receive all notices and other communications relating to any such meeting that a member is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

(13) Any member of a co-operative, whether or not he is^{Member may require auditor's attendance at members' meeting} entitled to vote at meetings of members, may, by notice in writing to the co-operative given five days or more before any meeting of members, require the attendance of the auditor at such meeting at the co-operative's expense, and in such event the auditor shall attend the meeting.

(14) At any meeting of members, the auditor, if present,^{Auditors must answer inquiries} shall answer inquiries directed to him concerning the bases upon which he formed the opinion stated in the report made under subsection (2). 1973, c. 101, s. 127.

128.—(1) The directors shall lay before each annual meet-^{Information to be laid before annual meeting}ing of members,

(a) a comparative financial statement relating separately to,

(i) the period that commenced on the date of incorporation and ended not more than six months before the annual meeting or, if the

co-operative has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, as the case may be, and

- (ii) the period covered by the financial year next preceding such latest completed financial year, if any,

made up of,

- (iii) a statement of profit and loss for each period,

- (iv) a statement of surplus for each period,

- (v) a statement of patronage returns allocated to members during the year,

- (vi) a statement of source and application of funds for each period, and

- (vii) a balance sheet as at the end of each period;

- (b) the report of the auditor to the members; and

- (c) such further information respecting the financial position of the co-operative as the articles or by-laws of the co-operative require.

Designation
of
statements

- (2) It is not necessary to designate the statements referred to in subsection (1) as the statement of profit and loss, statement of surplus, statement of patronage returns, statement of source and application of funds and balance sheet.

Auditor's
report to
be read

- (3) The report of the auditor to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member. 1973, c. 101, s. 128.

Statement
of profit
and loss

- 129.**—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the co-operative for the period covered by the statement and so as to distinguish severally at least,

- (a) sales or gross operating revenue;

- (b) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;

- (c) income from investments in subsidiaries whose financial statements are not consolidated with those of the co-operative;
- (d) income from other investments;
- (e) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (f) any provision for depreciation or for obsolescence or for depletion;
- (g) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (h) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense; and
- (i) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period.

(2) Notwithstanding subsection (1), items of the nature^{Idem} described in clauses (1) (f) and (g) may be shown by way of note to the statement of profit and loss. 1973, c. 101, s. 129.

130.—(1) The statement of surplus to be laid before an annual meeting shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus. 1973, c. 101, s. 130 (1).

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
 - i. the amount of surplus arising from the reorganization of the co-operative's issued

capital, including *inter alia*, the amount of surplus realized on the purchase of shares,

ii. donations of cash or other property by members, and

iii. the amount of membership fees.

3. The balance of such surplus at the end of the financial period. 1973, c. 101, s. 130 (2); 1978, c. 86, s. 20.

**Earned
surplus**

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.

2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:

i. The amount of the net profit or loss for the financial period.

ii. The amount of dividends declared on each class of shares.

iii. The amount of patronage returns allocated to members.

iv. The amount transferred to or from reserves.

3. The balance of such surplus at the end of the financial period. 1973, c. 101, s. 130 (3).

**Treatment
of patronage
returns**

131. Where a co-operative allocates patronage returns, the statement referred to in subclause 128 (1) (a) (v) shall be drawn up to distinguish patronage returns according to services or products or groups of products acquired, marketed, handled, dealt in or sold or rendered by the customer or by the co-operative and such statement shall be so drawn as to present fairly the information shown therein for the period and show separately for members and non-members the amount of patronage returns allocated to each service, product or groups of products. 1973, c. 101, s. 131.

132. The statement of source and application of funds referred to in subclause 128 (1) (b) (vi) shall be drawn up so as to present fairly the information shown therein for the period, and shall show separately at least,

(a) funds derived from,

- (i) current operations,
- (ii) sale of non-current assets, segregating investments, fixed assets and intangible assets,
- (iii) issue of debt obligations, including member loans, or other indebtedness maturing more than one year after issue,
- (iv) issue of shares,
- (v) membership fees; and

(b) funds applied to,

- (i) purchase of non-current assets, segregating investments, fixed assets and intangible assets,
- (ii) redemption or other retirement of debt obligations or repayment of other indebtedness maturing more than one year after issue,
- (iii) redemption or other retirement of shares,
- (iv) payment of dividends,
- (v) repayment of patronage loans,
- (vi) payment of cash patronage returns, and
- (vii) repayment of member loans. 1973, c. 101, s. 132.

133.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the co-operative as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the co-operative from its directors, officers or members, except debts of reasonable amount

arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.

3. Debts owing to the co-operative, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the co-operative.
4. Other debts owing to the co-operative segregating those that arose otherwise than in the ordinary course of its business.
5. Inventory, stating the basis of valuation.
6. Shares, bonds, debentures and other investments owned by the co-operative, except those referred to in paragraph 7, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
7. Securities of subsidiaries whose financial statements are not consolidated with those of the co-operative, stating the basis of valuation.
8. Lands, buildings and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the co-operative of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
9. There shall be stated under separate headings, in so far as they are not written off,
 - i. expenditures on account of future business,
 - ii. any expense incurred in connection with any issue of shares,
 - iii. any expense incurred in connection with any issue of debt obligations, including any discount thereon, and
 - iv. any one or more of the following: goodwill, franchises, patents, copyrights, trade marks

and other intangible assets and the amount, if any, by which the value of any such assets has been written up within a period of five years preceding the date to which the balance sheet is made up.

10. Bank-loans and overdrafts.
11. Debts owing by the co-operative, except those referred to in paragraphs 12 and 13, on loans from its directors, officers or members.
12. Debts owing by the co-operative on loans from members, called "member loans" referred to in section 49.
13. Debts owing by the co-operative to members on the compulsory loans of patronage returns referred to in subsection 56 (4).
14. Debts owing by the co-operative to subsidiaries whose financial statements are not consolidated with those of the co-operative, whether on account of a loan or otherwise.
15. Other debts owing by the co-operative, segregating those that arose otherwise than in the ordinary course of its business.
16. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
17. Dividends declared but not paid.
18. Deferred income.
19. Debt obligations issued by the co-operative, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
20. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
21. The issued capital, giving the number of shares of each class issued and outstanding and the amount

received therefor that is attributable to capital, and showing,

- i. the number of shares of each class issued since the date of the last preceding balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration, and
- ii. where any shares issued before this Act comes into force have not been fully paid,
 - a. the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
 - b. the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.

22. Contributed surplus.

23. Earned surplus.

24. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period.

25. The aggregate number of shares of the co-operative purchased and resold since the date of the last preceding balance sheet.

Notes

(2) Explanatory information or particulars of any item mentioned in subsection (1) may be shown by way of note to the balance sheet. 1973, c. 101, s. 133.

Notes to
financial
statement

134.—(1) There shall be stated by way of note to the financial statement particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period.

Change in
accounting
practice

(2) For the purpose of subsection (1), a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a state-

ment with that for the preceding period, even though such change did not have a material effect upon the profit or loss for the period.

(3) Where applicable, the following matters shall be referred ^{Idem} to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the co-operative.
3. Contractual obligations that will require abnormal expenditures in relation to the co-operative's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the co-operative, stating the liability so secured.
7. Any default of the co-operative in principal, interest, sinking fund or redemption provisions with respect to any issue of its debt obligations or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
9. Where a co-operative has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. Where a co-operative has contracted to purchase or resell common shares, the number of shares affected and price and date for the purchase or resale.

11. The aggregate direct remuneration paid or payable by the co-operative and its subsidiaries whose financial statements are consolidated with those of the co-operative to the directors and the senior officers and, as a separate amount, the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the co-operative whose financial statements are not consolidated with those of the co-operative.
12. In the case of a co-operative with subsidiaries, the aggregate of any shares in, and the aggregate of any debt obligations of, that co-operative held by a subsidiary corporation whose financial statements are not consolidated with those of the co-operative.
13. The amount of any loans by the co-operative, or by a subsidiary corporation, otherwise than in the ordinary course of business, during the co-operative's financial period, to the directors or officers of the co-operative.
14. Any restriction by the articles or by-laws of the co-operative or by contract on the payment of dividends that is significant in the light of the co-operative's financial position.
15. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement.
16. The amount of any obligation for pension benefits arising from service before the date of the balance sheet, whether or not such obligation has been provided for in the accounts of the co-operative, the manner in which the co-operative proposes to satisfy such obligation and the basis on which it has charged or proposes to charge the related costs against operations.
17. Brief particulars of any action to which the co-operative is a party commenced under section 68 during the period.
18. In the case of a co-operative that transacts business with non-members,
 - (i) where the amount of business transacted with non-members exceeds 20 per cent, a statement setting out the percentage of such business, or

- (ii) where the amount of business transacted with non-members does not exceed 20 per cent, a statement to this effect.

(4) A note to a financial statement is a part of it. Idem

(5) In this section, "senior officer" does not include each of the five highest paid employees of a co-operative. 1973, c. 101, s. 134. Interpretation of senior officer

135.—(1) A co-operative, in this section referred to as "the holding co-operative", may include in the financial statement to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form. Consolidated financial statement

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding co-operative are not so included in the financial statement of the holding co-operative, Non-consolidated financial statement

(a) the financial statement of the holding co-operative shall include a statement setting forth,

- (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding co-operative,

- (ii) if there is only one such subsidiary, the amount of the holding co-operative's proportion of the profit or loss of the subsidiary for the financial period coinciding with or ending in the financial period of the holding co-operative, or, if there is more than one such subsidiary, the amount of the holding co-operative's proportion of the aggregate profits less losses, or losses less profits, of all the subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding co-operative,

- (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding co-operative and the amount included therein as a provision for the loss or losses of the subsidiary or subsidiaries,

- (iv) if there is only one such subsidiary, the amount of the holding co-operative's proportion of the undistributed profits of the subsidiary earned since the acquisition of the shares of the subsidiary by the holding co-operative to the extent that such amount has not been taken into the accounts of the holding co-operative, or, if there is more than one such subsidiary, the amount of the holding co-operative's proportion of the aggregate undistributed profits of all the subsidiaries earned since the acquisition of their shares by the holding co-operative less its proportion of the losses, if any, suffered by any subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding co-operative,
- (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the co-operative's own financial statement and is material from the point of view of its members;
- (b) if for any reason the directors of the holding co-operative are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding co-operative, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement;
- (c) if, in the opinion of the auditor of the holding co-operative, adequate provision has not been made in the financial statement of the holding co-operative for the holding co-operative's proportion,
 - (i) where there is only one such subsidiary, of the loss of the subsidiary suffered since acquisition of its shares by the holding co-operative, or

- (ii) where there is more than one such subsidiary, of the aggregate losses suffered by the subsidiaries since acquisition of their shares by the holding co-operative in excess of its proportion of the undistributed profits, if any, earned by any of the subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor.

(3) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a holding co-operative are included in the financial statement of the holding co-operative, true copies of the latest financial statement of the subsidiary or subsidiaries shall be kept on hand by the holding co-operative at its head office and shall be open to examination by the members of the holding co-operative on request during the normal business hours of the holding co-operative. 1973, c. 101, s. 135.

Copies of
subsidiary
statement

136. Notwithstanding sections 129 to 135, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. 1973, c. 101, s. 136.

Insignificant
circum-
stances

137. In a financial statement, the term "reserve" shall be used to describe only,

Reserve

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the articles or by-laws of the co-operative for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. 1973, c. 101, s. 137.

138.—(1) The directors of a co-operative may elect annually from among their number a committee to be known as the audit committee to be composed of not fewer than three

Audit
committee

directors, of whom a majority shall not be officers or employees of the co-operative to hold office until the next annual meeting of the members.

Chairman

(2) The members of the audit committee shall elect a chairman from among their number.

Review

(3) The co-operative shall submit the financial statement to the audit committee for its review and the financial statement shall thereafter be submitted to the board of directors.

Hearing
of auditor

(4) The auditor has the right to appear before and be heard at any meeting of the audit committee and shall appear before the audit committee when required to do so by the committee.

Idem

(5) Upon the request of the auditor, the chairman of the audit committee shall convene a meeting of the committee to consider any matters the auditor believes should be brought to the attention of the directors or members.

Right of
auditor to
be heard

(6) The auditor of a co-operative shall be entitled to attend and be heard at meetings of the board of directors of the co-operative on matters relating to his duties as auditor. 1973, c. 101, s. 138.

Approval by
directors

139.—(1) The financial statement shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report, unless the co-operative is exempt under section 123, shall be attached to or accompany the financial statement.

Rights of
auditor
where no
audit
committee

(2) The auditor of a co-operative that has not elected an audit committee for the year to which the financial statement relates, is entitled,

(a) to receive notice of and to attend the meeting of directors called to approve the financial statement under subsection (1); and

(b) to request a meeting of the board of directors of the co-operative to consider any matters the auditor believes should be brought to their attention, and upon his request, the president of the co-operative shall convene such a meeting. 1973, c. 101, s. 139.

Mailing of
financial
statement to
members

140.—(1) A co-operative shall, ten days or more before the date of the annual meeting of members, send by prepaid mail to each member at his latest address as shown

on the records of the co-operative a copy of the financial statement and, subject to section 123, a copy of the auditor's report.

(2) The directors of such co-operative shall send by prepaid ^{idem} mail to each such member a copy of any financial statement and auditor's report amended under subsections 127 (4) and (5). 1973, c. 101, s. 140.

141.—(1) A co-operative shall file with the Minister its financial statements and, subject to section 123, a copy of its auditor's report that are required to be mailed by the co-operative to its members. ^{Financial statements to be filed with Minister}

(2) The financial statements and auditor's report where ^{idem} required, shall be sent to the Minister on the same date such statements are mailed or required to be mailed by the co-operative to its members, whichever is the earlier. 1973, c. 101, s. 141.

MAINTENANCE OF CO-OPERATIVE STATUS

142.—(1) Upon the request of the Minister, every co-operative shall furnish to the Minister such information as ^{Information to be furnished to Minister} he may require to enable him,

- (a) to compile statistical records and information in such form as the Minister may require;
- (b) to facilitate the carrying on of research projects;
- (c) to establish that all persons to whom this Act applies are not in contravention of this Act; and
- (d) to establish that the business and affairs of the co-operative are being conducted on a co-operative basis.

(2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except where that disclosure is necessary for the administration or enforcement of this Act or where the disclosure is required by a court for the purposes of an action, prosecution or other proceeding. 1973, c. 101, s. 142. ^{Information not to be disclosed}

143. Where the Minister is of the opinion that the business and affairs of the co-operative are not being conducted on a co-operative basis, he may, after giving the co-operative an opportunity to be heard, ^{Affairs not conducted on co-operative basis}

- (a) issue a certificate of amendment changing the co-operative into a corporation subject to the

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provisions of the *Business Corporations Act* and when necessary for the purpose, changing the co-operative into a corporation with share capital; or

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- (b) issue a certificate of amendment changing the co-operative into a corporation subject to the provisions of Part III of the *Corporations Act* and where necessary for the purpose, changing the co-operative into a corporation without share capital. 1978, c. 86, s. 21.

Limit to
non-member
business

144.—(1) Where the Minister is of the opinion that a co-operative has for a period of three years or longer conducted 50 per cent or more of its business with non-members of that co-operative, he may, after giving the co-operative an opportunity to be heard,

- (a) issue a certificate of amendment changing the co-operative into a corporation subject to the provisions of the *Business Corporations Act* and where necessary for the purpose, changing the co-operative into a corporation with share capital; or
- (b) issue a certificate of amendment changing the co-operative into a corporation subject to the provisions of Part III of the *Corporations Act* and where necessary for the purpose, changing the co-operative into a corporation without share capital. 1978, c. 86, s. 22.

Idem

(2) For the purposes of subsection (1), the amount of business conducted by a co-operative with a non-member means the value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the co-operative, on behalf of or for the non-members expressed as a percentage of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the co-operative from, on behalf of, or for all customers during the year.

Idem

(3) For the purposes of computing the amount of business under subsection (2), there shall not be included in the amount of business conducted with non-members, the value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the co-operative from, on behalf of or for non-members who are required to conduct business with the co-operative by a marketing plan established under an Act of the Legislature or of the Parliament of Canada. 1973, c. 101, s. 144 (2, 3).

145.—(1) If a co-operative exercises its corporate powers when its members are fewer in number than five for a period of more than six months after the number has been so reduced, each person who was a member of the co-operative during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers is severally liable for the payment of the whole of the debts of the co-operative contracted during such time and may be sued for the debts without the joinder in the action of the co-operative or of any other member. Members not to number fewer than five

(2) A member who has become aware that the co-operative is so exercising its corporate powers may serve a protest in writing on the co-operative and may by registered letter notify the Minister of such protest having been served and of the facts upon which it is based, and such member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability. Saving

(3) If after notice from the Minister the co-operative refuses or neglects to bring the number of its members up to five or more, such refusal or neglect may be regarded by the Minister as sufficient cause for the cancellation of the certificate of incorporation or any certificate issued by him under this Act. 1973, c. 101, s. 145. Notice and penalty

INVESTIGATIONS

146.—(1) Upon application by a member of a co-operative, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the co-operative or the holders of its securities to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as to the court seems fit, appointing an inspector to investigate the affairs and management of the co-operative or any subsidiary of the co-operative, or both, and to audit the accounts and records of the co-operative or any affiliate thereof named in the order. Investigations and audits

(2) An order may be made under subsection (1) whether or not there has been disclosure to the members of the co-operative of information relating to any matter on the basis of which the order is made. Idem

(3) Every director, officer, agent, employee, banker and auditor of the co-operative or of any subsidiary of the co-operative named in the order and every other person shall produce for the examination of the inspector all accounts and records of or relating to the co-operative or subsidiary in their custody or control. Production of accounts and records

Examination
may be
under oath

(4) The inspector may examine upon oath any present or former director, officer, agent or employee of the co-operative or subsidiary in relation to its affairs, management, accounts and records.

Court order
for
examination

(5) The court may, on the application of the inspector, on such terms and conditions as it sees fit, order any person not mentioned in subsection (4) to attend and be examined under oath before the inspector on any matter relevant to the investigation or audit.

Offences

(6) Every director, officer, agent, employee, banker or auditor who refuses to produce any account or record referred to in subsection (3) and every person examined under subsection (4) or (5) who refuses to answer any question related to the affairs and management of the co-operative or any subsidiary is guilty of an offence under section 176, in addition to any other liability to which he is subject.

Inspector's
report

(7) The inspector shall make a report to the court and shall forward a copy of the report to the co-operative and any subsidiary of the co-operative named in the order and to the person who made the application under subsection (1). 1973, c. 101, s. 146.

Co-operative
may appoint
inspector
for same
purpose

147.—(1) A co-operative may, by resolution passed at an annual meeting of members or a general meeting of members called for that purpose, appoint an inspector to investigate its affairs and management.

Powers and
duties of
inspector

(2) The inspector appointed under subsection (1) has the same powers and shall perform the same duties as an inspector appointed under section 146 and he shall make his report in such manner and to such persons as the co-operative by resolution of the members directs. 1973, c. 101, s. 147.

Where
Minister
to appoint
inspector

148.—(1) Notwithstanding anything contained in section 146 or 147, the Minister shall appoint in writing an inspector to investigate and report on the affairs and management of a co-operative or its subsidiaries if 10 per cent of the members of the co-operative request in writing such investigation and show circumstances suggesting that,

- (a) the business of the co-operative or any of its subsidiaries is or has been carried on with intent to defraud any person;
- (b) the business or affairs of the co-operative or any of its subsidiaries are or have been carried on or conducted, or the powers of the directors are or have

been exercised, in a manner oppressive or unfairly prejudicial to or in disregard of the interests of a security holder;

- (c) the co-operative or any of its subsidiaries was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or
- (d) persons concerned with the formation, business or affairs of the co-operative or any of its subsidiaries have in connection therewith acted fraudulently or dishonestly.

(2) The Minister may on his own initiative appoint in writing an inspector to investigate and report on the affairs and management of a co-operative or its subsidiaries if it appears that there exist any of the circumstances mentioned in clause (1) (a), (b), (c) or (d). Idem

(3) Every person shall produce for the examination of the inspector all accounts and records in their custody or control which relate to the co-operative or any of its subsidiaries. Production of accounts and records

(4) The inspector may examine upon oath any present or former director, officer, agent or employee of the co-operative or any of its subsidiaries in relation to its affairs, management, accounts and records. Examination may be under oath

(5) Upon an application to the court by the inspector, the court may, on such terms and conditions as it sees fit, order any person not mentioned in subsection (4) to attend and be examined under oath before the inspector on any matter relevant to the investigation. Court order for examination

(6) Every director, officer, agent, employee, banker or auditor who refuses to produce any account or record referred to in subsection (3) and every person examined under subsection (4) or (5) who refuses to answer any question related to the affairs and management of the co-operative or any of its subsidiaries is guilty of an offence under section 176 in addition to any other liability to which he is subject. Offences

(7) The inspector shall deliver the report of his investigation to the Minister and the Minister may forward a copy of the report to the co-operative and any subsidiary of the co-operative investigated. 1973, c. 101, s. 148. Report to be made to Minister

149. Where it appears from the report of an inspector made under section 146, 147 or 148 that any of the circum- Remedies

stances set out in clause 148 (1) (a), (b), (c) or (d) exist, the Minister may, notwithstanding any other remedies available,

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- (a) apply under clause 208 (d) of the *Business Corporations Act* to wind up the co-operative by order of the court;
- (b) cancel the certificate of incorporation for cause under section 166;
- (c) require, or apply to the court for an order under section 78 requiring, the directors of the co-operative to call a general meeting of members; or
- (d) refer the report of the inspector to the Attorney General. 1973, c. 101, s. 149.

Report
admissible
in
proceedings

150. A copy of the report of an inspector appointed under this Act authenticated by the registrar of the court or in the case of an investigation under section 147 or 148 by the inspector is admissible in any legal proceeding and is evidence of the opinion of the inspector in relation to any matter contained in the report. 1973, c. 101, s. 150.

REORGANIZATION

Amendment of Articles

Amendments

151.—(1) A co-operative may, from time to time, amend its articles of incorporation to,

- (a) change its name;
- (b) extend, limit or otherwise vary its objects;
- (c) increase its authorized capital;
- (d) decrease its authorized capital by cancelling shares whether issued or unissued or by reducing the par value of issued or unissued shares;
- (e) increase or decrease the membership fee;
- (f) increase or decrease the minimum amount of member loans;
- (g) redivide its authorized capital into shares of lesser or greater par value;

- (h) redesignate any class of shares;
 - (i) reclassify any shares into shares of a different class;
 - (j) delete or vary any provision in its articles;
 - (k) provide for any other matter or thing that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the co-operative;
 - (l) convert it into a co-operative with or without share capital;
 - (m) convert it into a corporation to which the *Business Corporations Act* applies; R.S.O. c. 54
 - (n) convert it into a corporation to which Part III of the *Corporations Act* applies. 1973, c. 101, s. 151 (1); 1978, c. 86, s. 23 (1). R.S.O. 1980, c. 95
- (2) An amendment under subsection (1), except clauses (l), (m) and (n), shall be authorized by a special resolution. 1978, c. 86, s. 23 (2). Authorization

(3) Subject to section 152, an amendment under clause (1) (l), (m) or (n) shall be authorized by a resolution of the board of directors and confirmed by at least three-quarters of the votes cast at a general meeting of the members of the co-operative duly called for that purpose. 1978, c. 86, s. 23 (3). Idem

(4) If the amendment is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of preference shares or to create preference shares, ranking in any respect in priority to or on a parity with an existing class of preference shares, then, in addition to the confirmation required by subsection (2), the resolution is not effective until it has been confirmed, Additional authorization for variation of rights of preference shares

- (a) by 100 per cent of the holders of the shares of such class or classes of shares in writing; or
- (b) in writing by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes and after twenty-one days notice of the resolution and confirmation has been given by sending the notice to each of the holders of shares of such class or classes to his latest address as shown on the records of the co-operative and only if at the expira-

tion of twenty-one days none of the holders of such class or classes has dissented in writing to the co-operative; or

- (c) if the articles so provide, by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose or such greater proportion of the votes cast as the articles provide,

and by such additional authorization as the articles provide. 1973, c. 101, s. 151 (4).

**Conversion
of co-
operative to
corporation**

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152.—(1) Notwithstanding subsection 151 (3), where a co-operative is no longer able to conduct its business and affairs on a co-operative basis by reason of the provisions of an Act of the Legislature or of the Parliament of Canada, the co-operative may apply to the Minister for a certificate of amendment converting the co-operative to a corporation to which the *Business Corporations Act* applies and, where necessary for the purpose, changing the co-operative into a corporation with share capital.

**Authoriza-
tion**

(2) An application under subsection (1) shall be authorized by special resolution. 1973, c. 101, s. 152.

**Articles of
amendment**

153.—(1) For the purpose of bringing an amendment to the articles into effect, the co-operative shall deliver to the Minister, within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the co-operative and signed by two officers, or by one director and one officer, of the co-operative and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out,

- (a) the name of the co-operative;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections 151 (2), (3) and (4); and
- (d) the date of the confirmation of the resolution by the members.

**Change
of name**

(2) Where the articles of amendment are to change the name of the co-operative, the articles of amendment shall be accompanied by evidence that establishes to the satisfaction of the Minister that the co-operative is not insolvent.

(3) Where the articles of amendment are to decrease the authorized capital, the articles of amendment shall be accompanied by evidence that establishes to the satisfaction of the Minister that the co-operative is not insolvent and that the decrease will not render the co-operative insolvent, and, if required by the Minister, by evidence that establishes to his satisfaction that no creditors object to the amendment. ^{Decrease of capital}

(4) Where the articles of amendment are to make any change in the authorized capital, the articles of amendment shall, if required by the Minister, be accompanied by a *pro forma* balance sheet after giving effect to the proposed change. 1973, c. 101, s. 153. ^{Pro forma balance sheet}

154.—(1) If the articles of amendment conform to law, the Minister shall, when all prescribed fees have been paid, ^{Certificate of amendment}

(a) endorse on each duplicate of the articles of amendment the word "Filed" and the day, month and year of the filing thereof;

(b) file one of the duplicates in his office; and

(c) issue to the co-operative or its agent a certificate of amendment to which he shall affix the other duplicate.

(2) The amendment becomes effective upon the date set forth in the certificate of amendment and the articles of incorporation are amended accordingly. 1973, c. 101, s. 154. ^{Effect of certificate}

Restatement of Articles

155.—(1) A co-operative may at any time restate its articles of incorporation as theretofore amended. ^{Restatement of articles}

(2) For the purposes of bringing the restated articles into effect, the co-operative shall deliver to the Minister the restated articles in duplicate, executed under the seal of the co-operative and signed by two officers, or by one director and one officer, of the co-operative and verified by affidavit of one of the officers or directors signing the restated articles, setting out, ^{Filing of restatement}

(a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and

(b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

Certificate of
restatement

(3) If the restated articles of incorporation conform to law, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the restated articles the word "Filed" and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the co-operative or its agent a restated certificate of incorporation to which he shall affix the other duplicate.

Effect of
certificate

(4) The restated articles of incorporation become effective upon the date set forth in the restated certificate and supersede the original articles of incorporation and all amendments thereto.

Where special
Act ceases
to apply

(5) Where a certificate of restatement is issued to a co-operative incorporated by special Act, the co-operative is continued as if it had been incorporated under this Act and the special Act ceases to apply to the co-operative. 1973, c. 101, s. 155.

Amalgamations and Continuations

Amalgama-
tion

156.—(1) Any two or more co-operatives may amalgamate and continue as one co-operative.

Agreement

(2) The co-operatives proposing to amalgamate shall enter into an agreement for the amalgamation, prescribing the terms and conditions of the amalgamation and the mode of carrying the amalgamation into effect, and, in particular the agreement shall set out, as may be applicable,

- (a) the name of the amalgamated co-operative;
- (b) the objects of the amalgamated co-operative;
- (c) the place in Ontario where the head office of the amalgamated co-operative is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district, and giving the street and number, if any;
- (d) the authorized capital of the amalgamated co-operative, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share;
- (e) where there are to be preference shares, the designations, preferences, rights, conditions, restrictions,

limitations or prohibitions applying to them or each class of them;

- (f) the restrictions, if any, to be placed on the transfer of member loans or of its shares or any class thereof of the amalgamated co-operative;
- (g) the authorized loan capital of the amalgamated co-operative;
- (h) the amount of membership fee and the classes of membership, if any, setting forth the designation of and the terms and conditions attaching to each class of membership in the amalgamated co-operative;
- (i) the names in full and the residence address, giving the street and number, if any, of each person who is to be a first director of the amalgamated co-operative;
- (j) the time and manner of election of the subsequent directors of the amalgamated co-operative;
- (k) whether or not the by-laws of the amalgamated co-operative are to be those of one of the amalgamating co-operatives and, if not, a copy of the proposed by-laws of the amalgamated co-operative;
- (l) the manner in which the issued shares of each of the amalgamating co-operatives are to be converted into issued shares of the amalgamated co-operative;
- (m) the manner of conversion of the loan and share capital, as the case may be, of the amalgamating co-operatives into the loan and share capital, as the case may be, of the amalgamated co-operative;
- (n) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated co-operative.

(3) Where shares of one of the amalgamating co-operatives are held by or on behalf of another of the amalgamating co-operatives, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into shares of the amalgamated co-operative.

Shares of
amalgamat-
ing co-
operative
held by
another

Treatment of
patronage
loans

(4) The member or patronage loans, if any, of the amalgamating co-operatives shall represent liabilities of the amalgamated co-operative.

Approval of
agreement

(5) An amalgamation agreement is not effective until approved by a special resolution of each of the amalgamating co-operatives.

Approval by
preference
shareholders

(6) Where the carrying out of the amalgamation agreement would result in the deletion or variation of a preference, right, condition, restriction, limitation or prohibition attaching to a class of issued preference shares of any of the amalgamating co-operatives or in the creation of preference shares of the amalgamated co-operative ranking in any respect in priority to, or on a parity with, any existing class of preference shares of any of the amalgamating co-operatives, the agreement is not effective until it is approved in the manner provided by subsection 151 (4) in addition to the approval required by subsection (5). 1973, c. 101, s. 156.

Filing of
articles of
amalgama-
tion

157.—(1) For the purpose of bringing an amalgamation into effect, the amalgamating co-operatives shall, within six months after the amalgamation agreement has become effective, deliver to the Minister articles of amalgamation in duplicate executed under the seal of each of the amalgamating co-operatives and signed by two officers, or by one director and one officer, of each of the amalgamating co-operatives and verified by affidavit of one of the officers or directors signing the articles of amalgamation for each amalgamating co-operative, setting out,

- (a) the names of each of the amalgamating co-operatives;
- (b) a certified copy of the amalgamation agreement;
- (c) that the agreement has been duly approved as required by section 156; and
- (d) the dates on which the amalgamation agreement was approved by the members of each of the amalgamating co-operatives.

Evidence of
solvency

(2) The articles of amalgamation shall be accompanied by evidence that establishes to the satisfaction of the Minister that each of the amalgamating co-operatives is not insolvent and, if required by the Minister, a *pro forma* balance sheet after giving effect to the proposed amalgamation.

Issuance of
certificate of
amalgama-
tion

(3) If the articles of amalgamation conform to law, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the articles the word "Filed" and the day, month and year of the filing thereof;
 - (b) file one of the duplicates in his office; and
 - (c) issue to the amalgamated co-operative or its agent a certificate of amalgamation to which he shall affix the other duplicate.
- (4) Upon the date set forth in the certificate of amalga-^{Effect of certificate} mation,
- (a) the amalgamation becomes effective and the amalgamating co-operatives are amalgamated and continue as one co-operative under the terms and conditions prescribed in the amalgamation agreement;
 - (b) the amalgamated co-operative possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating co-operatives;
 - (c) the issued capital of the amalgamated co-operative is, subject to the decrease provided for in subsection 156 (3), equal to the aggregate of the issued capital of each of the amalgamating co-operatives immediately before the amalgamation becomes effective; and
 - (d) the articles of incorporation of each of the amalgamating co-operatives are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement. 1973, c. 101, s. 157.

158.—(1) A corporation incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Minister to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Minister for a certificate continuing it as if it had been incorporated under this Act, and the Minister may issue the certificate of continuation on application supported by such material as appears satisfactory, and the certificate may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Minister to be fit and proper. ^{Certificate of continuation}

(2) Upon the date set forth in a certificate of continuation issued under subsection (1), this Act applies to the corporation to the same extent as if it had been incorporated under this Act. 1973, c. 101, s. 158. ^{Effect of certificate}

Transfer of
Ontario
co-operative

159.—(1) A co-operative may, if authorized by a special resolution, by the Minister and by the laws of any other jurisdiction, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the co-operative as if it had been incorporated under the laws of that other jurisdiction.

Notice

(2) This Act ceases to apply to the co-operative on and after the date on which the co-operative is continued under the laws of the other jurisdiction and the co-operative shall file with the Minister a copy of the instrument of continuation certified by the proper officer of the other jurisdiction authorized to certify such documents.

Application

(3) This section applies only in respect of a jurisdiction that has legislation in force that permits corporations incorporated under its laws to apply for an instrument of continuation under the laws of Ontario. 1973, c. 101, s. 159.

Rights of
creditors
preserved

160. All rights of creditors against the property, rights and assets of a co-operative amalgamated under section 156 or continued under section 158 and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties of the co-operative thenceforth attach to the amalgamated or continued co-operative and may be enforced against it. 1973, c. 101, s. 160.

DISSOLUTION

Winding
up

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161. Sections 192 to 237, except clause 222 (1) (a), of the *Business Corporations Act* apply, with necessary modifications, to co-operatives, and for the purpose a reference therein to a corporation shall be deemed to be a reference to a co-operative and a reference therein to a shareholder shall be deemed to be a reference to a member. 1973, c. 101, s. 161.

Distribution
of property

162.—(1) On any distribution of the property of a co-operative, member loans and patronage returns that are lent to the co-operative rank after the ordinary debts. 1973, c. 101, s. 162 (1).

Distribution
of property
upon
dissolution

(2) The articles or by-laws of a co-operative may provide that, upon the dissolution of the co-operative and after the payment of all debts and liabilities, including any declared and unpaid dividends and the amount paid up on any outstanding shares, which amount shall not exceed the par value thereof, the remaining property of the co-operative or any part thereof may be distributed or disposed of,

- (a) equally among the members irrespective of the number of shares or amount of loans, if any, held or made by a member;
- (b) among the members at the time of dissolution on the basis of patronage returns accrued to such members during the five fiscal years immediately preceding the dissolution or after the date of incorporation; or
- (c) to charitable organizations. 1973, c. 101, s. 162 (2); 1978, c. 86, s. 24 (1).

(3) In the absence of any provisions in the articles or ^{Idem} by-laws permitted by subsection (2), upon the dissolution of the co-operative, the whole of its remaining property shall be distributed equally among the members irrespective of the number of shares or amount of loans, if any, held or made by a member. 1978, c. 86, s. 24 (2).

163. A co-operative may be dissolved upon the authoriza- ^{Voluntary}
tion of, ^{dissolution}

- (a) a majority of the votes cast at a general meeting of the members of the co-operative duly called for the purpose or by such other proportion of the votes cast as the articles provide, but such other proportion shall not be less than 50 per cent of all the members entitled to vote at the meeting;
- (b) the consent in writing of all the members entitled to vote at such meeting; or
- (c) all its incorporators or their personal representatives at any time within two years after the date set forth in its certificate of incorporation where the co-operative has not commenced business and has not issued any shares or received any membership fees or loans. 1973, c. 101, s. 163.

164.—(1) For the purpose of bringing the dissolution authorized under clause 163 (a) or (b) into effect, the co-operative shall deliver to the Minister articles of dissolution in duplicate, executed under the seal of the co-operative and signed by two officers or by one director and one officer of the co-operative and verified by affidavit of one of the officers or directors signing the articles of dissolution, setting out, <sup>Articles of
dissolution
where
co-operative
active</sup>

- (a) the name of the co-operative;
- (b) that its dissolution has been duly authorized under clause 163 (a) or (b);

- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection (3) or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its members or that it has distributed its remaining property in accordance with section 162 or in accordance with subsection (4) where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its head office. 1973, c. 101, s. 164 (1); 1978, c. 86, s. 25.

Articles of
dissolution
where co-
operative
never active

(2) For the purpose of bringing a dissolution authorized under clause 163 (c) into effect, the co-operative shall deliver to the Minister articles of dissolution in duplicate, signed by all its incorporators or their personal representatives and verified by affidavit of one of them setting out,

- (a) the name of the co-operative;
- (b) the date set forth in its certificate of incorporation;
- (c) that the co-operative has not commenced business;
- (d) that none of its shares has been issued;
- (e) that no membership fees or loans have been received;
- (f) that dissolution has been duly authorized under clause 163 (c);
- (g) that it has no debts, obligations or liabilities;
- (h) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto;

(i) that there are no proceedings pending in any court against it; and

(j) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its head office.

(3) Where a co-operative authorizes its dissolution and a creditor is unknown or his whereabouts is unknown, the co-operative may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause (1) (c). Where creditor unknown

(4) Where a co-operative authorizes its dissolution and a member is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a distribution to that member for the purposes of the dissolution. Where member or shareholder unknown

(5) If the property delivered or conveyed to the Public Trustee under subsection (4) is in a form other than cash, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash. Power to consent

(6) If the amount paid under subsection (3) or the property delivered or conveyed under subsection (4) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him. 1973, c. 101, s. 164 (2-6). Payment to person entitled

165.—(1) If the articles of dissolution conform to law, the Minister shall, when all prescribed fees have been paid and all taxes payable by the co-operative to the Treasurer of Ontario have been paid, Certificate of dissolution

(a) endorse on each duplicate of the articles of dissolution the word "Filed" and the day, month and year of the filing thereof;

(b) file one of the duplicates in his office; and

(c) issue to the co-operative or its agent a certificate of dissolution to which he shall affix the other duplicate.

Effect of
certificate

(2) The dissolution becomes effective and the co-operative is dissolved upon the date set forth in the certificate of dissolution. 1973, c. 101, s. 165.

Cancellation
of certificate,
etc., by
Minister

166. Where sufficient cause is shown to the Minister, he may, after he has given the co-operative an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any certificate issued by him under this Act, and,

(a) in the case of the cancellation of a certificate of incorporation, the co-operative is dissolved on the date fixed in the order;

(b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance of the certificate ceases to be in effect from the date fixed in the order. 1973, c. 101, s. 166.

Notice of
dissolution

167.—(1) Where a co-operative is in default in filing an annual return or financial statement for a period of two years, the Minister may give notice, by registered mail to the co-operative or by publication once in *The Ontario Gazette*, that an order dissolving the co-operative will be issued unless the co-operative files the annual return or financial statement within one year after the giving of the notice.

Dissolution
for default

(2) Upon default in compliance with the notice given under subsection (1), the Minister may by order cancel the certificate of incorporation and, subject to subsection (3), the co-operative is dissolved on the date fixed in the order.

Revival

(3) Where a co-operative is dissolved under subsection (2), the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the co-operative, and thereupon the co-operative, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. 1973, c. 101, s. 167.

168.—(1) Notwithstanding the dissolution of a co-operative ^{Suits after dissolution} under section 165, 166 or 167,

- (a) any action, suit or other proceeding commenced by or against the co-operative before its dissolution may be proceeded with as if the co-operative had not been dissolved;
- (b) any action, suit or other proceeding may be brought against the co-operative within two years after its dissolution as if the co-operative had not been dissolved; and
- (c) any property that would have been available to satisfy any judgment, order or other decision if the co-operative had not been dissolved remains available for such purpose.

(2) For the purposes of this section, the service of any process on a co-operative after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Ministry as being a director or officer of the co-operative before the dissolution. 1973, c. 101, s. 168. ^{Service after dissolution}

169.—(1) Notwithstanding the dissolution of a co-operative, ^{Liability of members to creditors} each of the members among whom its property has been distributed remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter.

(2) Where there are numerous members, the court referred to in subsection (1) may permit an action to be brought against one or more members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. 1973, c. 101, s. 169. ^{Action against one member as representing class}

170. Subject to section 168, any real or personal property ^{Forfeiture of undisposed property} of a co-operative that has not been disposed of at the date of its dissolution is forfeit to the Crown. 1973, c. 101, s. 170.

171. At the same time as a co-operative is required to file its financial statements with the Minister under subsection 141 (2), the co-operative shall also file an annual return ^{Annual return} in such form as the regulations prescribe. 1973, c. 101, s. 171.

GENERAL

Notice to
directors and
members

172.—(1) Subject to the articles or by-laws of a co-operative,

- (a) a notice or other document required to be given or sent by a co-operative to a member or director may be delivered personally or sent by prepaid mail addressed to the member or director at his latest address as shown on the records of the co-operative; and
- (b) a notice or other document sent by mail by a co-operative to a member or director shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail.

Undelivered
mail

(2) Where notices or other documents required by this Act, the articles or by-laws to be given or sent by a co-operative to a member have been mailed to the member at his latest address as shown on the records of the co-operative and where, on three consecutive occasions, notices or other documents have been returned by the Post Office to the co-operative, the co-operative is not required to mail to the member any further notices or other documents until such time as the co-operative receives written notice from the member requesting that notices and other documents be sent to the member at a specified address.

Notice to
co-operative

(3) Except where otherwise provided in this Act, a notice or document required to be given or sent to a co-operative may be sent to the co-operative by prepaid mail at its head office as shown on the records of the Ministry and shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail.

Waiver of
notice and
abridgement
of time

(4) Where a notice is required by this Act to be given to any person, the giving of the notice may be waived or the time for the notice may be waived or abridged with the consent in writing of such person, whether before or after the time prescribed. 1973, c. 101, s. 172.

Offence,
false
statement

173.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) No person is guilty of an offence under subsection (1) if ^{Defence} he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. 1973, c. 101, s. 173.

174.—(1) Every person who fails to file with the Minister any document required by this Act to be filed with him is ^{Offence, failure to file} guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

(2) Where a corporation is guilty of an offence under ^{Idem} subsection (1), every director or officer thereof who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 1973, c. 101, s. 174.

175. No proceeding under section 173 or 174 shall be ^{Consent} commenced except with the consent or under the direction of the Minister. 1973, c. 101, s. 175.

176.—(1) Except where otherwise provided, every person ^{Offence, general} who commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or, if such person is a corporation, to a fine of not more than \$10,000.

(2) Where a corporation is guilty of an offence under subsection ^{Idem} (1), every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1973, c. 101, s. 176.

177.—(1) No proceeding under section 173 or 174 or under ^{Limitation} section 176 for a contravention of section 118 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him.

(2) Subject to subsection (1), no proceeding for an offence ^{Idem} under this Act or the regulations shall be commenced more than one year after the time when the subject-matter of the offence arose. 1973, c. 101, s. 177.

178. Where a co-operative or a director, officer or employee ^{Order for compliance} of a co-operative does not comply with any provision of this Act or the articles or the by-laws of the co-operative, the Minister or a member or a creditor of the co-operative, not-

withstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, may apply to the court for an order directing the co-operative, director, officer or employee, as the case may be, to comply with such provision, and upon such an application the court may make such order or such other order as the court thinks fit. 1973, c. 101, s. 178.

Proof by
affidavit

179.—(1) The Minister may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise.

Oaths at
hearings

(2) For the purpose of holding a hearing under this Act, the Minister may administer oaths to witnesses and require them to give evidence under oath. 1973, c. 101, s. 179.

Publication
of notices
in *The
Ontario
Gazette*

180. The Minister shall cause notice to be published forthwith in *The Ontario Gazette*,

(a) of the issue of every certificate under section 6, 9, 154, 155, 157, 158 or 165;

(b) of the issue of every order under section 118, 166 or 167;

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(c) of the filing of a certified copy of an order under subsection 206 (6) or subsection 219 (2) of the *Business Corporations Act*;

(d) of the filing of a notice by a liquidator under subsection 206 (2) of the *Business Corporations Act*. 1973, c. 101, s. 180.

Searches

181.—(1) Upon payment of the prescribed fee, any person is entitled to examine any document filed with or issued by the Minister under this Act, and to make extracts therefrom.

Certifications
by Minister

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certificate as to whether or not a document has been filed with or issued by him under this Act or any predecessor thereof or with a certified copy of any such document. 1973, c. 101, s. 181.

Execution of
certificates
of Minister

182.—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the regulations.

Certificates
as evidence

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under

subsection (1), or any certified copy, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof of the facts so certified without proof of the seal or of the signature or the official position of the person appearing to have signed the certificate. 1973, c. 101, s. 182.

183.—(1) Where the Minister refuses to file any articles or any other document required by this Act to be filed by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor. Notice of refusal to file

(2) Where, within six months after the delivery to the Minister of articles or other document referred to in subsection (1), the Minister has not filed or refused to file such articles or other document, he shall be deemed for the purposes of section 184 to have refused to file it. 1973, c. 101, s. 183. Failure to act deemed refusal

184.—(1) Any person who feels aggrieved by a decision of the Minister to, Appeal from Minister

(a) refuse to file articles or any other document or to issue any certificate required by this Act to be filed or issued;

(b) issue or refuse to issue a certificate of amendment under subsection 9 (2), (3) or (4);

(c) issue a certificate of amendment under section 143, 144 or 152;

(d) issue an order under section 166,

may appeal the decision to the Divisional Court.

(2) The Minister shall certify to the Registrar of the Supreme Court, Certificate of Minister

(a) the decision of the Minister, together with a statement of the reasons therefor;

(b) the record of any hearing; and

(c) all written submissions to the Minister or other material that is relevant to the appeal.

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Representation

(4) Where an appeal is taken under this section, the Divisional Court may by its order direct the Minister to make such Order of court

decision or to do such other act as the Minister is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Minister shall make such decision or do such act accordingly.

Minister
may make
further
decision

(5) Notwithstanding an order of the Divisional Court, the Minister has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. 1973, c. 101, s. 184.

Appeal
from court

185. An appeal lies to the Court of Appeal from any order made by the court under this Act. 1973, c. 101, s. 185.

Regulations

186. The Lieutenant Governor in Council may make regulations respecting any matter that he considers necessary relating to the incorporation, conduct and dissolution of co-operatives including, without limiting the generality of the foregoing, regulations,

- (a) respecting names, objects, authorized capital, the form and contents of offering statements, membership, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares or classes of shares or any other matter pertaining to articles or the filing thereof;
- (b) requiring the payment of fees for any matter that the Minister is required or authorized to do under this Act, and prescribing the amounts thereof;
- (c) prescribing any matter required by this Act to be prescribed by the regulations;
- (d) designating officers of the Ministry for the purposes of paragraph 4 of subsection 1 (1) and section 182. 1973, c. 101, s. 186.